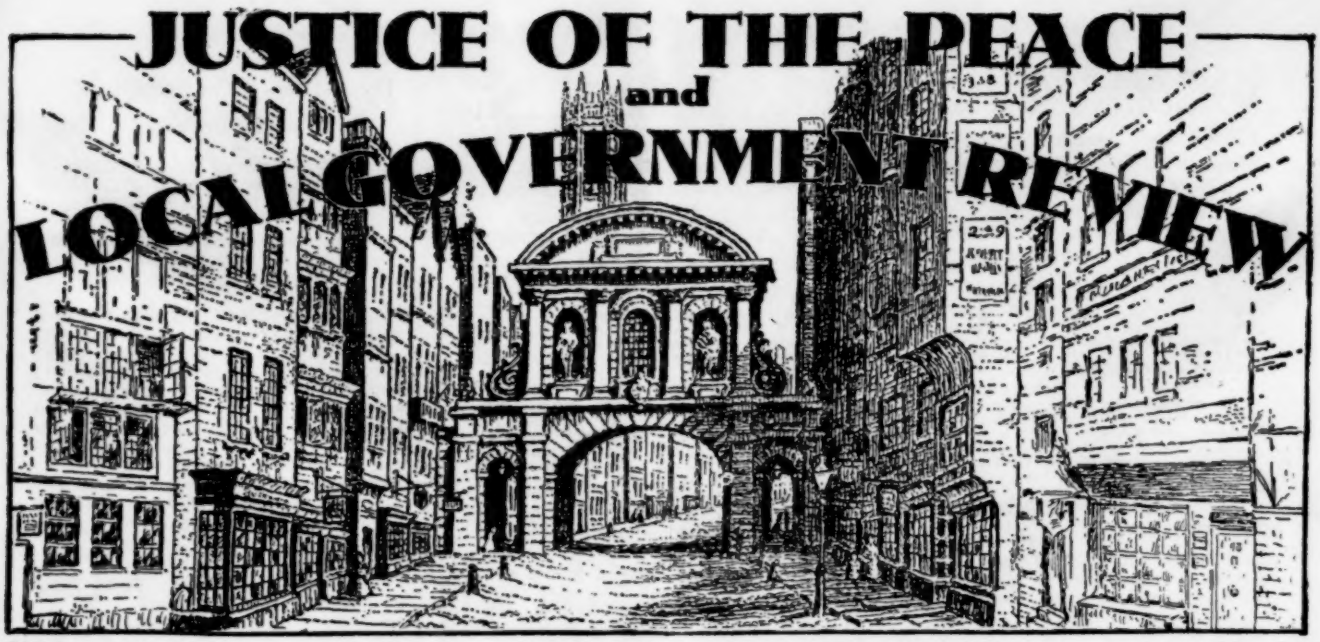

VOL. CXVIII LONDON: SATURDAY, SEPTEMBER 4, 1954 No. 36

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REPORTS

Official & Classified Advertisements, etc.

Official Advertisements (Appointments, Tenders, etc.), 2s. 6d. per line and 3s. 6d. per displayed headline. Classified Advertisements, 24 words 6s. (each additional line 1s. 6d.) Box Number, 1s. extra *Latest time for receipt* 10 *a.m. Thursday*

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NOTIFICATION OF VACANCIES ORDER, 1952

The engagement of persons answering these advertisements must be made through a Local Office of the Ministry of Labour or a Scheduled Employment Agency if the applicant is a man aged 18-64 or a woman aged 18-59 inclusive unless he or she, or the employment, is excepted from the provisions of the Notification of Vacancies Order, 1952. *Note :* Barristers, Solicitors, Local Government Officers, who are engaged in a professional, administrative or executive capacity, Police Officers and Social Workers are excepted from the provisions of the Order.

APPOINTMENTS

BRACKNELL NEW TOWN Development Corporation—Chief Law Officer. Applications invited from Solicitors with not less than five years' experience since admission, who are interested in social experiment of New Towns. Salary £1,500×£50—£1,700. Housing available if required. Applications, marked "C.L.O.," giving age, education, experience and two references, by September 25,to General Manager, Farley Hall, Bracknell, Berks.

INQUIRIES

YORKSHIRE DETECTIVE BUREAU (T. E. Hoyland, Ex-Detective Sergeant). Member of The Association of British Detectives, World Secret Service Association and Associated American Detective Agencies. DIVORCE — OBSERVATIONS — ENQUIRIES—Civil and Criminal investigations anywhere. Over 1,000 Agents. Over 27 years C.I.D. and Private Detective Experience at your Service. Empire House, 10, Piccadilly, Bradford. Tel. 25129. (After office hours, 26823.) Established 1945.

PARKINSON & CO., East Boldon, Co. Durham. Private and Commercial Investigators. Instructions accepted from Solicitors only. Tel. : Boldon 7301. Available day and night.

DURHAM COUNTY COMBINED AREA PROBATION COMMITTEE

Appointment of Female Probation Officer

APPLICATIONS are invited for the appointment of a whole-time Female Probation Officer for the Durham County Combined Probation Area. Applicants must not be less than twenty-three years or more than forty years of age except in the case of serving officers.

The appointment and salary will be in accordance with the Probation Rules and the salary will be subject to superannuation deductions. The successful applicant will be required to pass a medical examination.

Applications, stating age, education, qualifications and experience, together with the names and addresses of two referees, should be received by the undersigned not later than September 15, 1954.

J. K. HOPE,
Secretary to the Combined Probation Committee.

August 30, 1954.

URBAN DISTRICT COUNCIL OF COULSDON AND PURLEY

Appointment of Senior Legal Clerk

APPLICATIONS are invited for the appointment of a Senior Legal Clerk in the Department of the Clerk of the Council. The person appointed will be engaged on the general legal work of the Council, should have a thorough knowledge and experience of Common Law, and should also be able to undertake Conveyancing matters. Previous Local Government experience will be an advantage.

The appointment is subject to the provisions of the Local Government Superannuation Acts, the National Scheme of Conditions of Service, and to the passing of a medical examination.

Salary within A.P.T. Grades V(*a*)/VI (£650—£760) according to experience, plus London Weighting, the appointment to be determined by one month's written notice on either side.

Forms of Application may be obtained from me, and should be returned, accompanied by copies of two recent testimonials, so as to be received not later than September 16, 1954.

Canvassing in any form will disqualify.

ERIC F. J. FELIX,
Clerk of the Council.

Council Offices,
Purley, Surrey.
August, 1954.

Amended Advertisement.

COUNTY BOROUGH OF ST. HELENS

Chief Assistant Solicitor

APPLICATIONS are invited for the above appointment at a commencing salary according to experience and qualifications within the scale of £950 rising by £50 p.a. to £1,100 p.a. The appointment is subject to the National Conditions of Service, the Superannuation Acts and to a medical examination. It will determinable by one month's notice on either side.

Housing accommodation will be provided.

Applications, stating age, experience and educational qualifications and giving names and addresses of two referees, should reach me by September 11, 1954.

T. TAYLOR,
Town Clerk.

Town Hall,
St. Helens.
August 23, 1954.

BOROUGH OF LOWESTOFT

Town Clerk's Office

APPLICATIONS invited for appointment of an Assistant Solicitor. Salary A.P.T. Va/VII (£650/£670 : £735 × £25/£810) according to experience.

Sound knowledge of conveyancing and some experience in advocacy required. Previous Local Government experience will be an advantage.

The appointment is subject to (*a*) National Joint Councils' Conditions of Service ; (*b*) Local Government Superannuation Acts ; (*c*) successful passing of medical examination ; (*d*) one month's notice on either side.

Applications, stating age, qualifications and experience, together with copies of three recent testimonials, should be delivered to the undersigned not later than September 20, 1954.

Candidates must disclose any relationship within their knowledge to any member or Senior Officer of the Borough Council. Canvassing will disqualify.

F. B. NUNNEY,
Town Clerk.

Town Hall,
Lowestoft.
August 30, 1954.

PROBATION COMMITTEE FOR THE SHROPSHIRE PROBATION AREA

Appointment of Whole-time Female Probation Officer

APPLICATIONS are invited for the above appointment. Applicants must be not less than twenty-three nor more than forty years of age, except in the case of whole-time serving officers.

The appointment will be subject to the Probation Rules, 1949-1954, and the salary in accordance with the prescribed scale.

The successful applicant will be required to pass a medical examination.

Applications, stating date of birth, present position, salary, previous employment, qualifications and experience, together with the names of three persons to whom reference can be made, must reach me not later than September 18, 1954.

G. C. GODBER,
Secretary of the County Probation Committee.

Shirehall,
Shrewsbury.
August 18, 1954.

MIDDLESEX COMBINED PROBATION AREA

Appointment of Full-time Male Probation Officer

APPLICANTS must be not less than twenty-three nor more than forty years of age, except in the case of a serving Probation Officer, and have recognized social science qualifications or experience in social case work. Appointment and salary according to Probation Rules, 1949/54, with £30 per annum Metropolitan Addition ; subject to superannuation deductions and medical assessment. Application forms, from undersigned, to be returned by September 20 (Quote P.26 J.P.).

CLIFFORD RADCLIFFE,
Clerk to the County Probation Committee.

Guildhall,
Westminster, S.W.1.

Justice of the Peace
and
Local Government Review
[ESTABLISHED 1837.]

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NOTES of the WEEK

Termination of Desertion

A decree of judicial separation or a separation order made by a magistrates' court puts an end to any existing state of desertion, *Harriman* v. *Harriman* (1909) 73 J.P. 193, *Robinson* v. *Robinson* [1919] P. 352. The effect of a decree *nisi* for nullity was one of the points before the Court of Appeal in *W* v. *W* (No. 2) [1954] 2 All E.R. 829.

The wife had told her husband to leave the house, which belonged to her, and subsequently he left. Sometime afterwards he obtained a decree *nisi* for nullity, but this was set aside by the Court of Appeal. Next, the husband presented a petition alleging three years' continuous desertion, from the date of his eviction, which the wife denied. The Commissioner granted the husband a decree, against which the wife appealed.

On the question of the effect of the decree *nisi* for nullity, the Court of Appeal held that the making of such a decree did not of itself put an end to desertion and it was a question of fact in each case whether a period of desertion had been terminated. The Court found that the pronouncement of the decree of nullity had not affected the wife's mind or conduct, it was not possible to say that the parties were living apart by reason of that decree, and in all the circumstances desertion was not terminated.

Road Traffic Offences : Caution or Prosecution

A daily paper comments on the figures given in " Offences Relating to Motor Vehicles during 1953 " (H.M. Stationery Office, price 1*s.* 9*d.*) under a heading " Half as many warnings as prosecutions," and suggests that those who complain that the police are at times over eager to prosecute for minor offences would do well to study the pamphlet. The overall figures quoted are 317,835 prosecutions and 155,214 warnings with no prosecution. It has to be realized that it does not always follow, when a warning is given, that a prosecution would have resulted in a conviction, and it may be that in some cases a warning is considered appropriate because although the police are satisfied in their own minds that an offence was committed they realize that the evidence available would be unlikely to satisfy a court beyond reasonable doubt that the case was proved. We hasten to add that this is mere supposition on our part, and we are prepared to be told that such a consideration is never present to the minds of those who decide these matters.

We are surprised to notice that even reckless or dangerous driving is at times considered to be appropriately dealt with by a caution. The report we have read states that ninety-five such " offences " were passed over without prosecution. Similarly 2,414 cases of alleged careless driving were dealt with without prosecution, and 645 no insurance " offenders " were warned by the police. We have no doubt that the responsible authorities have carefully considered this question, but it might well be argued that if the driving complained of amounts in the view of the police to an offence against s. 12 of the 1930 Act, and still more if it constitutes reckless or dangerous driving, it is a matter to be considered by a court and not one to be dealt with by caution from the police. When we come to an offence against s. 35 there is the further consideration that such an offence is one which the law says must on conviction involve disqualification for twelve months, unless *the court* for special reasons thinks fit to order otherwise. If the police are satisfied that an offence against s. 35 has been committed are they justified in usurping, as it were, the function of a court by deciding in effect that there are special reasons and that there shall be no disqualification ?

One point which must not be overlooked in this connexion is that if a court purports to find special reasons and none really exists the High Court can put the matter right. If a police authority decides not to prosecute the motorist is quite safe because that is a decision which the High Court cannot review. We are not assuming that in the 645 cases referred to there was no justification for the action taken, but we do consider this is a matter of some public interest particularly as there is nothing, so far as we are aware, to ensure uniformity of action by different police forces on such a matter.

Other figures given in the report are that 902 people were imprisoned during the year for motoring offences and 297,259 were fined a total amount of £690,376, including costs. The individual motorist must try to console himself by realizing that his contribution was but a drop in the ocean.

Witnesses Out of Court

In most courts it is general to observe a rule that witnesses, but not the parties, shall remain outside the court room until they are called to give evidence. This power to exclude witnesses is recognized in s. 57 (6) of the Magistrates' Courts Act, 1952. The object of such a rule is to prevent witnesses who have not yet given evidence from hearing what other witnesses have said and what questions have been asked in cross-examination.

There is also a general practice of requiring witnesses who have given evidence to remain in court until permission is given for them to be released. There are two good reasons for this. One reason is that there may be a need to recall a witness and the other is that if witnesses were allowed to leave there might be opportunities for communicating with witnesses who had not yet given evidence and of suggesting what they had better say.

In a recent case before a magistrates' court, the defence criticized the action of the prosecutor who, it was said, had left the court without being given permission to do so. He had given his own evidence. It does not appear to have been

suggested that there was any intention to communicate with any witnesses, but only that he ought to have observed the general rule and remained until the magistrates had given their decision. The general practice is based on sound principles, and it is well to observe them. The court can always make exceptions, and does so occasionally in favour of a witness who has good reason for wishing to be released without delay. Medical and other professional or expert witnesses are often allowed to be in court before they are called to give evidence, it being generally conceded that they are disinterested and not partisan. Sometimes it is an advantage that they should hear the evidence so that they may be questioned upon it. In another connexion, Humphreys, J., delivering judgment in the Court of Criminal Appeal, spoke of the evidence of a medical man being accepted as that of a professional man giving independent expert evidence with a desire to assist the court (*R.* v. *Nowell* [1948] 1 All E.R. 794 ; 112 J.P. 255).

Drunk at Eighteen

It is always sad to see a boy or girl in the dock on a charge of drunkenness, but if it is the first time there may be a reasonable excuse. Young people unused to strong drink may be easily and unexpectedly overcome, and that should serve as a warning. It is the repetition of the experience that gives cause for anxiety, and there is some ground for thinking that drinking too much is becoming rather more prevalent among young people than it used to be.

A girl of eighteen was recently fined for being drunk and disorderly. According to the newspaper report she told the magistrates she earned £20 a week by rag collecting. This is so astonishing that one wonders if there was a misprint or whether the girl was making a correct statement of her earnings. If it is true, there must be something wrong about wages and earnings generally, when a rag collector, and a young one at that, can get more than most skilled craftsmen, miners or railwaymen, to say nothing of more than a few professional men. Besides, it cannot be good for any young boy or girl still in the teens to handle so much money, long before there are responsibilities and needs to which it has to be applied.

The Wrong Medicine

The possible consequences of a mistake in making up a prescription are not pleasant to contemplate. Illness, or even death, may result. Fortunately, serious mistakes do not often occur, and dispensing chemists are generally careful about this important matter.

An unusual instance of a mistake and its consequences came to light when a well-known company was summoned before a magistrates' court in respect of the sale of certain tablets. It appeared that an apprentice had supplied tablets quite different from those prescribed by the medical practitioner, through what was described as an unaccountable mistake. The sequel was that the patient was seen by a police constable driving his car in an erratic manner, and that when he walked he was unsteady and apparently dazed and sleepy. Instead of the tablets he had been ordered he had been given a strong sedative.

The facts might easily have led to a prosecution for careless driving or for driving while under the influence of drugs, but, so far as we can gather from a newspaper report, no such proceedings were taken, doubtless because the reason for the driver's condition was ascertained. Had he been summoned, he would no doubt have put forward the defence that he was not aware that he was taking a strong sedative, and had no reason for anticipating that he would become drowsy or unsteady. Exactly how and when the cause of his indisposition was discovered is not stated, but it was fortunate that it was discovered.

Caravan Dwellers

Caravans for holiday-makers have been popular for many years, and they appear to be gaining increased popularity with the advent of sites equipped with every facility for the supply of milk, newspapers and amenities of many kinds, including shops. There are, however, many caravans used as permanent dwellings, and these will continue to be in demand as long as there is any shortage of houses—and perhaps afterwards, since some people really like the life.

Caravans are not always welcome in villages and places where there are no special sites provided, but that depends a great deal on how the caravan-dwellers behave, especially in relation to such matters as the closing of gates, the control of dogs, and the deposit of litter. *The Yorkshire Post* records the advent of caravans in two small villages to the extent of doubling the population. Many of the people come from towns for week-end rest, but there is also a small permanent caravan population who have been made welcome, and who join in the life of the village, including church and school. The local vicar approves of all this as one means by which families are kept together in cases where there might be danger of separating. The break-up of family life for want of separate accommodation is unfortunate, and many a couple with a child or two would much prefer to live in a caravan rather than share a house or flat with relations. A caravan can be made comfortable and healthy to live in, and if its inhabitants are absorbed into village life it can serve the purpose of a real home.

Litter and Enforcement

We have printed so much about litter in the course of 1954 that we hesitate to speak of it again. We have, however, heard of one method of coping, at least partially, with the difficulty pointed out at p. 481, *ante*, of having somebody at hand to enforce a byelaw. The police authority in West Sussex, which has its fair share of beauty spots deserving to be kept free from litter, have been able to put two motor-cyclist constables on the work of enforcing the county council's byelaw, and this should have some influence at any rate upon the frequency of the offence, in proportion as offenders come to realize that an officer empowered to take action may be riding round the corner. We do not, however, think it wise to expect too much ; the deliberate scatterer will quickly learn to cock an ear for an approaching cycle engine, before dumping litter on the grass or in the hedge.

There is a further difficulty, which is not peculiar to this byelaw : it extends to other byelaws and to many statutory enactments of like calibre. Suppose the enforcement officer is at the offender's elbow, and pounces as soon as the offence has been committed. He has, even if he is a constable, no power of arrest ; he can ask the offender's name, but cannot insist upon it, and there is no practical method of knowing that a name, even if given, is correct. If the offender came by car, the number can be taken, but the owner cannot be obliged, as he can under the Road Traffic Act, 1930, in respect of an alleged motoring offence, to state afterwards who was the driver at the time in question. Nor, if this is discovered, does it cover all the ground, for the culprit may have a passenger.

If the offence takes place in a pleasure ground, a recreation ground, or an open space, to which (respectively) apply the provisions of s. 164 of the Public Health Act, 1875 ; s. 8 (1) (*d*)

of the Local Government Act, 1894, or s. 15 of the Open Spaces Act, 1906, and if the appropriate byelaw has been made (according to the legal classification of the piece of land in question), an offender can be removed by an enforcement officer, but (even so) cannot be compelled to give his name. It is fortunate that the sort of people who commit a variety of summary offences are sometimes as ignorant of their own rights as they are indifferent to the customs of civilized mankind ; in other words, they suppose they are bound to give a name and address (and that it is punishable to give a false name) when asked by a man in uniform. But, strictly, the task of enforcing most of these prohibitions and restrictions is beset by bigger obstacles than is commonly realized, by those who call for more and more restriction.

Rating Reform

With *The Times* giving space upon the leader page for an article by Mr. D. N. Chester about the mischiefs of derating, there is likely to be a fresh attack along that line in the interval before the next election, though we hardly suppose anyone is so sanguine, indeed so unreasonable, as to expect that a Government with its eyes on the next general election would commit itself in the present Parliament. The field is therefore open to anyone who can suggest alternative methods of financing local government. One of our readers has worked out a scheme by which the hypothetical tenant would go back to limbo (after all, the hypothetical tenant is not part of the original system) and with him—according to the scheme—" gross and rateable values, all Acts and orders relative to rating and valuation, valuation and rating departments within local authorities and water undertakings, the appropriate departments of Inland Revenue, de-rating, industrial concessions, rate poundage system, hypothetical profits basis (as applied to certain industries), periodical re-valuations and inspections of premises, to domestic consumers such as baths and water-closets, and percentage to value (water undertakings), also additional charges, numerous sundry charges which vary from one undertaking to another, and rent restrictions." We are not sure why rent restriction should be among the victims of this particular holocaust, but the others seem logical enough. The proposal is that properties should be classified according to area alone, and upon each property there should be levied a charge fixed by the local authority according to the class in which the property is included. Thus if there are 8,300 separate properties in class A (under six hundred square feet), and the local authority have fixed £12 as the charge for class A, the product will be £99,600, and so also will the product be worked out for classes B to G, which the author considers would usually be enough classes into which to divide all the properties in a rating area. There are complications, notably percentage additions to the class charge, in case of certain properties possessing a higher value by reason of position or the type of business. Concessions would be made to unsewered property and to old age pensioners. We should like to think that it could all be made so easy. The curious can, we understand, obtain details from the author of the scheme, Mr. D. Frith, of 13, Cambridge Road, Southend-on-Sea. At least he deserves gratitude for an idea which breaks away from the jargon and junk piled by historical and political causes upon the original simplicity of the present system.

REMAND HOMES

[CONTRIBUTED]

The Children Act, 1908, virtually abolished the imprisonment of children under sixteen on remand, and placed on police authorities the duty of providing "places of detention." The term " remand home " was introduced by the Children and Young Persons Act, 1933, which transferred responsibility for the provision of such homes from police authorities to local education authorities. Accommodation was provided for children who had to be detained in a place of safety until their case had been heard and determined in court ; children who had been committed to approved schools and were awaiting vacancies in such schools and children who had been committed under s. 54 of the Act for detention in a remand home for a period not exceeding one month. By the Children Act, 1948, the provision of remand homes was transferred to county and county borough councils, who were to perform the duty through their children committees.

During the war years the increase in juvenile delinquency and the increasing use of the powers contained in s. 54 of the Act resulted in overcrowding of remand homes, and a demand for more accommodation. During the past ten years, however, there has been a great change, and there is now an excess of remand home accommodation.

The Home Secretary announced in Parliament recently that there had been a fourteen *per cent.* reduction in indictable offences committed by children. This welcome reduction, together with other factors, calls for a review of the position. Children are now often sent direct to classifying schools or, in the case of younger children, to reception centres. In some cases, children are being remanded to their own homes by the juvenile courts, so that probation officers are able to supply a better report on the child, and are able to give the magistrates a picture of the child's home life and his home conditions. The waiting period for cases committed to approved schools has also been reduced. All these changes have caused a decline in the demand of places in remand homes, resulting in the closing of some during past years. Figures recently published, in connexion with twenty-two homes run by county borough councils, show that the use of the accommodation available has dropped from sixty-five *per cent.* to fifty-eight *per cent.* during the past three years, but the total net expenditure on these homes has risen from £137,148 to £152,981 and the average weekly cost per child for the same period has risen from £7 14*s.* 9*d.* to £9 13*s.* 3*d.* It is believed that the changes throughout the country are even more marked.

The number of children in a home has, of course, a close relationship to the cost per child ; for the fewer children there are the higher the cost will be per head. Overheads, which account for most of the cost and which include staff salaries and wages, heating, lighting and capital costs, are the same for the home whether empty or full, even though the other costs, *e.g.*, food, laundry, etc., vary with the number of occupants.

It is essential that the homes should be properly staffed, and by persons of such calibre as to be able to deal with the most difficult types of children. In fact, the staffs of many remand homes complain that they now only get the older, tougher delinquents. It is also essential that there should be ample provision of playing space and room for handicrafts and normal school work, for the children must be kept fully and usefully occupied whilst they are

in the homes. It would not appear, therefore, that any great changes can be made in the staffing or quality of the homes provided. The problem is to provide an economic and efficient service without reducing the present standards.

In some areas the remand home service has been provided on a regional basis and similar arrangements are afoot in other areas, but even where this has been done the cost of maintaining the homes is still high. But in some cases the arrangements are based on the demand for places which existed some years ago. The main difficulty, however, is the distance which the children and their escorts have to travel with the consequent cost and loss of time. There is also the problem of the child who has to be accommodated near the court for one night only. Juvenile courts are quite naturally reluctant to send children to distant remand homes and, therefore, it is not easy to know, when devising a regional service for remand homes, which homes to retain and which to close, or where to site any new homes which may be required.

To set aside a part of a children's home to be used only as a remand home raises a number of objections. The main one of which is the undesirability of the children's home receiving a " stigma " which its use as a remand home may cause.

The extended use of present remand homes to accommodate all children when first received into the care of a local authority also has objectionable elements, for the emotional upset, of a child who has, perhaps, just lost its parents, would probably be increased by sending him to a remand home.

If all remand homes were closed and their functions taken over by the extended use of accommodation which is at present provided by local authorities for other purposes, the difficulty would be to avoid sending the delinquents to homes at present used by ordinary children, and alternatively, to avoid sending them to places providing accommodation for the more hardened types of delinquents.

It would, therefore, appear that remand home accommodation must continue to be provided, and the most satisfactory answer would seem to be a service provided on a regional basis with the homes within reasonable distance and easy access to the magistrates' courts. The local authorities responsible for the provision of such accommodation should, therefore, discuss among themselves the future of the service in the light of the reduced demand for accommodation, the increasing cost, and the continuing demand for such a service.

A.A.

LOCAL AUTHORITY BORROWING—CONTROL OVER OUTSTANDING DEBT

[CONTRIBUTED]

Control of borrowing by local authorities by way of statute, statutory rules and orders, and the powers of government departments, are most rigid, but a close examination of the local schemes governing the operation of consolidated loans funds will show that the outstanding debt to outside lenders at any time is not necessarily reconciled with the total available borrowing powers. These schemes are established by local Acts, and the model scheme drawn up by the Council of the Institute of Municipal Treasurers and Accountants in collaboration with the Ministry of Housing and Local Government is invariably adopted as the basis. The advantages of a consolidated loan fund are that it enables all capital resources to be pooled and employed in the most economical manner, and the use of internal funds is facilitated. All borrowing accounts pay the same rate of interest (the average for the year, or half-year), and the setting up of separate sinking funds for maturity loans is abolished.

Current restrictions on borrowing by local authorities include the obtaining of a loan sanction (except for a few minor exceptions), the obtaining of Treasury consent in respect of outside loans in excess of £50,000 in any period of twelve months, and the special restrictions and regulations affecting particular types of loan. There are also the statutory provisions requiring periods for repayment, and the Minister may request a return at any time, showing the provision made for repayment.

It is clear, therefore, that a local authority is unable to borrow, either from internal funds or from outside lenders, without a loan sanction. Most local authorities, however, utilize the greater part of their internal funds available for investment for new capital purposes. If they have a consolidated loans fund, they invariably invest such surplus funds therein and advance the money out to borrowing accounts. They cannot make advances out of the consolidated loans fund, however, without a loan sanction. It will be seen that the loan sanction is not exercised until the advance is made from the consolidated loans fund. Where an authority is continually investing its internal funds (*e.g.*, superannuation fund, capital fund, and so on) in the consolidated loans fund it is not always apparent that such borrowing is covered by loan sanction, and the position is aggravated by the fact that the loan sanction is not considered to be exercised by the investing of the internal fund, but only when used as an advance to the borrowing account. The principle of not earmarking borrowings to loan sanctions is the essence of the consolidated loans fund scheme, and makes for simple administration, but unless an attempt is made to reconcile total outstanding debt (debt due by the consolidated loans fund to outside and internal lenders) with total unexpired loan sanctions, there seems to be little to prevent a local authority from becoming a money dealer. Loans can now be raised on mortgage from sources other than the Public Works Loan Board, and, while the latter always insist on identification of the loan with particular loan sanctions, the private mortgagee is not concerned. Unless steps are taken to see that all moneys borrowed by the consolidated loans fund, as well as those lent by the fund, are covered by loan sanction, the local authority might be accused of operating as a financial house, that is, borrowing from one source to lend to another at a profit, since any surplus monies in the consolidated loans fund must be invested. Without proper control, a local authority might borrow on short-term mortgages at, say, three *per cent.*, and invest in authorized securities at 3½ *per cent.*, thus making a profit out of money dealing. This might not be a bad thing for the local authority, but it is certainly not a legal object.

Does the normal consolidated loans fund scheme ensure that the authority does not " over-borrow " in the manner indicated above? It appears not. The only statistical statements required by the scheme which afford any sort of control over outstanding debt consist of (*a*) the reconciliation of the borrowing powers unexercised at the commencement of the year with those unexercised at the end of the year, (*b*) the reconciliation of the borrowing powers exercised to date with the total outstanding

advances from the fund, and (*c*) reconciliation of net debt with net total of borrowing powers exercised. What is missing is a statement showing that the total gross debt to outside lenders and internal funds does not exceed the total unexpired loan sanctions. It can be seen that statements (*a*) and (*b*) above relate solely to borrowing powers "exercised" and "unexercised," meaning borrowing powers exercised by way of advances from the consolidated loans fund. This does nothing to reconcile the borrowings from outside lenders and internal funds with loan sanctions. The statement (*c*) above is a mere calculation showing that liabilities, less investments and cash, equals the remaining asset—total outstanding advances.

It will therefore be seen that a single borrowing by a local authority at any time, whether covered by loan sanction or not, will not upset the balance in the statistical statements. The investment, for instance, of £20,000 of superannuation monies in the consolidated loans fund will not affect statements (*a*) or (*b*), and will leave the "net debt" the same as before (£20,000 added to debt to "other funds," and £20,000 cash deducted).

W.S.E.

MISCELLANEOUS INFORMATION

KENT POLICE REPORT

The battle of wits that is constantly being waged between police and criminals is well exemplified in the following passage from the report of Major Sir J. F. Ferguson, C.B.E., chief constable for the county of Kent, for the year 1953. "The drop of 421 crimes or 15·6 *per cent.* in the breaking offence group is noted with satisfaction although, on the other hand, the percentage of detected offences decreased from 41·0 *per cent.* to 38·4 *per cent.* On examination it is found that this decrease is almost entirely due to the drop in the percentage of detected offences in the housebreaking group from 39·7 to 32·2 which indicates the increased skill and resourcefulness used by thieves who commit this type of offence."

The total number of recorded crimes for the year 1953 was 11,060 representing a decrease of 1,847 or 14·3 *per cent.* on the 1952 figure. The downward trend in juvenile crime is maintained, the number of juveniles proceeded against and the number of indictable offences known to have been committed by them showing decreases of sixty-six or 7·8 *per cent.* and 305 or 16·0 *per cent.* respectively.

The actual strength of the force, 1,502, is well below the authorized establishment. Recruitment is evidently a problem still. In 1953 the net increase in the male strength of the force was twenty-two, against fifty-nine in 1952 and twenty-five in 1951.

Another pressing problem is that of housing. At the end of the year, 104 members of the force were urgently in need of houses.

The sickness rate has increased; the average number of all ranks absent sick per day which was 31·17 in 1952 rose to 44·30 in 1953.

New duties, and the need for fresh forms of instruction for police officers, are indicated in this report. "All members of the regular force have completed basic general training in atomic, biological and chemical warfare subjects, likewise training in the elements of reconnaissance and reporting and damage control. The majority of the force have received instruction in basic rescue work. Considerable progress has been made in the training of members of the special constabulary in the subjects referred to." On December 31, the strength of the Kent Special Constabulary was 2,162, of whom 1,424 were regularly employed on police duty.

AFFILIATION AND WIFE MAINTENANCE PROCEEDINGS AGAINST MEMBERS OF VISITING FORCES IN ENGLAND AND WALES

1. In Home Office Circular No. 122/1954, dated June 9, it is said it may be of assistance to justices to have the following information about wife maintenance and affiliation proceedings against members of visiting forces in England and Wales.

2. Under the existing law, members of visiting forces in the United Kingdom are liable to be sued in their personal capacity in respect of claims for affiliation and maintenance, but in some cases benefit from the immunities from process of enforcement which are conferred on members of the British forces by ss. 144 and 145 of the Army and Air Force Acts and ss. 97 to 98A of the Naval Discipline Act and are applied to members of visiting forces by the Visiting Forces (British Commonwealth) Act, 1933, the Allied Forces Act, 1940, and the Orders made thereunder.

3. When the Visiting Forces Act, 1952, comes into force on June 12, 1954, the existing legislation will be repealed and members of visiting forces will no longer have any immunity from the ordinary process of enforcement in this respect.

Visiting Forces of the United States of America

4. The competent United States service authorities have given an assurance that they will make every effort to secure that members of the United States forces comply with orders and judgments of United Kingdom courts.

5. The Secretary of State understands that the wife of an enlisted man in the United States forces is entitled to receive allowances from the service authorities on her own behalf, and in respect of any children of the marriage, on application made either by the husband or by the wife. These allowances may exceed the sums which could be awarded by a court under a maintenance order, but if a maintenance order is obtained the allowance is adjusted to conform with the amount payable under the order. It is therefore advisable for the wife of an enlisted member of the United States forces who is not being supported by her husband, or receiving an allowance, to communicate with the United States service authorities, if she has not already done so, before applying for a maintenance order. It is open to her to write to her husband's commanding officer if she knows his address, or, if she does not, to the Staff Judge Advocate, 3rd United States Air Force, Victoria Park Estates, South Ruislip, Middlesex.

6. Allowances are not payable direct to the wives of officers of the United States forces, but the United States service authorities do not expect that any difficulty will arise in securing the payment to officers' wives of allowances paid to their husbands on their behalf.

7. No allowances are payable in respect of illegitimate children, but the United States authorities consider that in practice they will be able to see that members of their forces meet their liabilities under affiliation orders.

8. It would therefore be helpful if the United States authorities could be notified of any maintenance or affiliation order made against a member of their forces and of any subsequent application which may be made to the court in connexion with such an order. There is set out in para. 11 below a suggested procedure with regard to the service of summonses and orders which has been agreed with the United States service authorities; these authorities have expressed their willingness to inform the court, if requested, of the steps which they have taken to secure compliance with the court's order in any particular case.

Visiting Forces of Canada

9. The Canadian service authorities have no power to pay allowances in respect of orders except where these have been made, or are enforceable, in Canada, including maintenance orders made in the United Kingdom and registered under the provisions of the Canadian law corresponding to the Maintenance Orders (Facilities for Enforcement) Act, 1920. In this connexion the Secretary of State understands that in the case of a man who is believed to have left the United Kingdom, the Canadian service authorities would be prepared to inform his wife of his posting, except in special cases where security regulations are involved. This is of special interest in cases where the man has returned to Canada and it may be possible to take action under the Maintenance Orders (Facilities for Enforcement) Act, 1920. It is suggested that in such cases the wife should be advised to communicate with the Secretary, Canadian Joint Staff (London), 66, Ennismore Gardens, London, S.W.7.

10. The Canadian service authorities, although they have no powers of compulsion, are willing to assist in securing that members of their forces in the United Kingdom meet their liabilities under maintenance and affiliation orders made by United Kingdom courts. It is therefore desirable that the Canadian service authorities should be informed of any maintenance or affiliation order made against a member of the Canadian forces and of any subsequent application which may be made to the court in connexion with such an order.

Procedure for service of summonses and orders on members of the United States and Canadian Forces

11. It is suggested that when an affiliation or wife maintenance summons is issued against a member of the United States or Canadian army or air forces, the summons should be handed to the police in triplicate—one copy for service on the serviceman, one for retention by his commanding officer, and one for return endorsed as to service. If the serviceman's unit and address are known, the convenient course would be to send the summons to the local police for service in the

usual way. If the unit, or the address of the unit, is not known, the police should communicate with the Police Liaison Officer (Visiting Forces) who will be in a position to ascertain the address and notify the police, and they will then arrange for service in the usual way.

If a summons is issued against a member of the United States or Canadian Navy, it is requested that it should be sent in triplicate to the Police Liaison Officer (Visiting Forces) c/o the Commissioner of Police of the Metropolis, New Scotland Yard, S.W.1, who will arrange for service on the man through the United States or Canadian naval headquarters.

It is suggested that when a maintenance or an affiliation order is made against a member of the United States or Canadian army or air forces, arrangements should be made for a copy of the order to be served on the man and for a copy to be sent to his commanding officer. If copies of orders made against members of the United States or Canadian Navy are sent in triplicate to the police liaison officer he will arrange for service.

Other visiting forces

12. If any question should arise of instituting affiliation or wife maintenance proceedings against a member of a visiting force of any other Commonwealth or foreign country to which the Visiting Forces Act, 1952, applies, the Secretary of State would be grateful if you would communicate with the Home Office ; he will then be glad to give any further advice and assistance within his power.

General

13. The Secretary of State is sure that the justices will share his view that it is in general desirable to avoid the committal to prison of a member of a visiting force for failing to comply with an order of the court, since it is in the interests of all concerned that payment should be obtained rather than that the defendant should be committed in default. Accordingly, if in any case payment is not being made and the justices are not satisfied that adequate steps are being taken to secure compliance with the order, the Secretary of State would be obliged if, before a committal order is issued, the circumstances could be reported to the Under Secretary of State, Home Office (C Division) ; the Secretary of State hopes that, having regard to the good relations existing with the visiting force authorities, it may usually prove possible to secure a satisfactory settlement.

EAST HAM PROBATION REPORT

The report of the probation officers for the county borough of East Ham strikes a hopeful note. After referring to the somewhat gloomy reports they have had to present in recent years they say " The year 1953, which has become popularly known as Coronation Year, will be remembered for the commencement of a general stabilizing influence in national affairs and the beginning of a general trend towards recovery and progress in the economic, industrial and political life of the community. How far this heartening effort has affected the general behaviour of people as a whole must be a matter of conjecture, but it is significant that the position taken locally reveals a most hopeful state of affairs, inasmuch that the figures for 1953 show a decrease on previous years. It is not a large decrease, but the importance lies in the fact that it is a decrease and not as we have previously reported, an increase."

It is always interesting to hear the views of police, prison officers and probation officers upon the effect of new legislation. Here is an impression concerning the Criminal Justice Act, 1948. " The impact which the Criminal Justice Act, 1948, has had upon the courts is now being felt and the improved methods of treatment embodied in the Act are beginning to show results which are being very closely studied, and although this may be somewhat premature, our view is that in many cases the new methods introduced by this Act are having most beneficial results."

There is the customary reference to the problem of the young people who drift into crime or are in danger of it. As the report says, these bear the hallmark of utter aimlessness, but, says the report, there is ample proof, if such were needed, that character training in early life and decent standards of behaviour could have made these types a national asset instead of what they now are, a liability.

Comment is made upon the reluctance of many good natured people to prosecute children for pilfering. This, it is suggested, is mistaken kindness, as it may lead to further acts of dishonesty, and it is better that such cases should be reported so that suitable action may be taken.

It is noticeable that there is an absence of delinquency of the kind to bring juveniles before the court in the new housing areas in the district and this fact suggests that the cause of much of the trouble in which many children become involved is overcrowding at home which drives them to spend too much time on the streets.

Various opinions have been expressed about the effect of National Service upon young men, many of whom seem unable to settle down until it is over, and sometimes not even then. This report says : " From our experience we have found that it provides a most necessary discipline for youths who have had a minimum of control in their homes. They generally smarten up and often take a pride in their equipment and appearance and for the first time seem to realize the value of adjusting themselves to the claims of society, rather than pursuing a selfish and aimless existence with abandonment of all sense of responsibility." It is recognized, however, that in the case of unstable lads the unsettling effect of the call-up has unfortunate results.

After-care work continues to increase and in the case of those released from borstal institutions or approved schools, the results are encouraging. This is not so with those released from sentences of imprisonment or corrective training, but the probation officers are determined to go on planning for greater success.

TUBERCULOSIS CAMPAIGN

Local authorities generally are doing their best to support the desire of the Ministry of Health for a continuous campaign against tuberculosis and particularly through the facilities which are now becoming more generally available for diagnosis through mass radiography. According to a recent article in the *Scotsman*, it seems that we South of the Border can learn and be encouraged by the progress which is being made there to combat the disease. In response to an appeal to residents to submit themselves for X-ray examination one of the wards in Edinburgh has surpassed all other places where similar campaigns have been conducted. It is estimated that about seventy *per cent.* of the people were examined either in mobile X-ray units or at school. There is no doubt that this is an admirable method of detecting the disease in its early stages and for discovering the sources of infection to others. The next step is an adequate system of " following up " and in attempting to discover where the person affected contracted the infection. The Department of Health for Scotland, in a recent memorandum to all Scottish health authorities, emphasized the importance of tracing and examining contacts and keeping them under supervision. As suggested in the *Scotsman*, the whole process demands the willing co-operation of the public, and for this reason a considerable amount of propaganda is necessary. Housing conditions are basic factors in the incidence of this disease and it is to be hoped that one result of the campaign for slum clearance which will be helped by the new Act will be a still further reduction in the incidence of the disease, and so cause a further reduction in the death rate which has steadily gone down in recent years. Treatment, however, is not always easy as it must be the aim not only to cure the infected person but to prevent the infection of others. In some households, suitable arrangements are difficult and the rehousing of tuberculous families is one of the important measures now being taken in some areas. Isolation until the infective stage is past, is the ideal, but is often impracticable.

The Ministry of Health asked medical officers of health to include special reference in their annual reports for 1953 to the preventive care and after-care services as a means of controlling this disease. In particular it was asked that the report should give information as to the extent of ascertainment of contacts of known cases of tuberculosis, showing, if available, the number of contacts examined in relation to the number of notified cases in recent years ; any comments which can be made on the employment conditions of known cases of tuberculosis in relation to their own health and that of fellow employees ; the steps which are taken to follow up deaths of persons whose tuberculosis disease was not notified during life ; the working of any schemes to ascertain and follow up early cases among children and others ; and any special case-finding surveys in the whole or part of the area.

The Minister in opening extensions to the East Ham Chest Clinic recently said there was nothing more exciting in the whole field of the National Health Service than the progress which is being made in the realm of tuberculosis. There are those who think that tuberculosis will disappear altogether in the same way as many of the infectious diseases which used to devastate the country. He would not, however, prophesy this but said tuberculosis is slowly being conquered.

PUBLIC LIABILITY INSURANCE BY POLICE AUTHORITIES

Some time ago, the local authorities associations asked the Home Office to review its practice in relation to the payment of Exchequer grant on premiums paid by police authorities for insurance against claims in respect of damage to persons or property arising from the act or negligence of their employees or from defective property. In a memorandum dealing with this matter the Home Office has pointed out that there are special features about the nature of police functions and the status of the constable in relation to the police authority which make it inappropriate to take out insurance policies to provide cover in respect of any payments made in settlement of claims arising out of the tortious, wrongful or negligent acts of police officers. These features were summarized as follows:

(*a*) The Courts have held that the relationship between a police constable and the police authority is not normally a relation between servant and master, and that a police authority is not, within the meaning of *Fisher* v. *Oldham Corporation*, legally liable for damage or injury resulting from the tortious acts of a constable whilst acting in the purported execution of his duty. Any payment made by an authority in satisfaction of damages or costs awarded against an officer of police is therefore an ex gratia payment and not a payment in discharge of a legal liability resting on the police authority.

(*b*) The individual responsibility of a police constable is an important constitutional principle, and the Home Office considers that this principle might be infringed if police authorities ceased to exercise their discretionary powers to meet damages awarded against police constables and took out insurance policies to protect themselves against payments they might make to meet claims of an injured party in respect of the tortious, wrongful or negligent acts of individual police officers. Moreover, there may be circumstances surrounding an action which are properly known to the police constable and to the police authority which could not be disclosed to an insurance company which, under ordinary insurance practice, would wish itself to negotiate a settlement and, if necessary, defend an action. The associations appeared to be apprehensive that if police authorities were debarred from taking out public liability policies, they might have to meet such substantial damages that, even after allowing for the assistance given by the Exchequer grant, the payment would involve a violent fluctuation in the rates. It is stated, however, that the experience of the Home Office shows that the largest claims brought by injured parties have been in cases where police vehicles are involved, and premiums on comprehensive policies to provide cover against the risks arising out of the use of police vehicles are already recognized for grant purposes. If the damage and injury that may be inflicted by police officers when using vehicles on police duty are excluded, it seems to the Home Office that the risks to be considered are payments by way of damage in cases of wrongful arrest, unnecessary use of force by police officers, or malicious prosecutions. Experience does not suggest that the payments made in settling claims in such cases should cause any serious financial embarrassment to a body as large as most modern police authorities.

ARE MORE HOSPITALS NEEDED ?

Since the coming into operation of the National Health Service Act there has been pressure in some quarters for the erection of new hospitals and the extension of others. Some experts in hospital administration, however, have expressed the view repeatedly that it is not a case of spending vast sums of money on new buildings—although some new building is no doubt necessary—but of using existing accommodation for those who need hospital treatment and not using so much of it for aged people who could well be cared for elsewhere. We have noted with interest, therefore, the views expressed by the president of the Institute of Hospital Administrators at the recent annual conference of the Institute, that provision for infectious diseases seems to be adequate and there is not much ground for thinking that it is inadequate for those suffering from tuberculosis. We hear, however, of many cases in which it is not possible for tubercular persons to get into hospital as early as they should but this is no doubt due more to a shortage of nurses than a shortage of actual hospital accommodation. The one serious inadequacy is generally admitted to be for the mentally ill and mental defectives. Too many mental hospitals lack admission units and sick wards and much modernization is needed. The chairman of the Board of Control, in giving evidence before the Royal Commission on Mental Health, said he thought that there was enough accommodation for the mentally ill but much of it was " very bad." A memorandum submitted by the Ministry of Health to the Royal Commission showed that the Commission is concerned with some 150,000 mentally ill people and about the same number of mental defectives. While the number under treatment appears to remain stable the turnover of patients has increased enormously in recent years due no doubt to many people now realizing that mental illness should be treated early and can then very often be cured. There is no evidence of an increase in mental morbidity when considered in proportion to the population. Although, therefore, the Board of Control seem to think that the position is not serious in regard to the amount of accommodation available for the mentally sick it is agreed that the problem is very acute in the accommodation of mental defectives.

ALMSHOUSES

The chairman of the National Association at a meeting held at Norwich under the chairmanship of the Lord Lieutenant of Norfolk to consider the extension of the work of the association to that county said (we quote from the *Eastern Daily Press*) it was remarkably difficult to discover how many almshouses there were in the whole country. When the association had a meeting at Ipswich it was discovered that there were more almshouse foundations in the area than were known to the local authorities. There is no information in any government office or anywhere else as to how many there are or as to how many old people are being housed by them. He thought it was important that this information should be available in view of the possibility that the Minister of Health might revoke the present exemption of almshouses from the requirements as to registration and inspection under the National Assistance Act. As we have mentioned in drawing attention previously to the work of the association, and as emphasized at the meeting, help—both architecturally and financially—can be given in the promotion of improvement schemes under the Housing Acts to bring almshouses into conformity with modern standards as well as other kinds of help. It was claimed at the meeting that, apart from the care of the chronic sick, the almshouses form the best pattern of any housing for the aged and bring them the greatest enjoyment. While we agree on the important part which almshouses have taken in the past, and we hope will be enabled to take in the future, in meeting the special housing needs of the aged, we think it is exaggerated to call this the " best pattern " as some of the recent developments of special types of housing by housing authorities and voluntary organizations are equally good and may sometimes be better. There is room for them all and more are required.

LINCOLNSHIRE PROBATION REPORT

The number of probationers remaining under supervision at December 31, 1953, showed a decrease of seventy-four on the previous year. It is, says Mr. J. Arundel-Simpson, principal probation officer, probably due to the smaller number of juveniles appearing before the juvenile courts that this figure has decreased ; and he comments : " This is a welcome sign, although it is too early yet to say whether juvenile delinquency is really on the decrease, but it is comparable with the general decline in the incidence of juvenile delinquency in many other parts of the country." When the case committees are satisfied that a probationer has made such satisfactory progress that merits amending or discharging the order and after considering the report of the appropriate probation officer, they recommend that application should be made to the court for the discharge of the order. This action is encouraging to a probationer who has made every effort to rehabilitate himself, and releases the probation officer to spend more time on the more difficult cases.

The policy of the committee is to appoint whole-time probation officers and when fully trained officers have not been available, the committee have requested the Secretary of State to give the officers the necessary training. Therefore, four officers have completed a three months' training course as approved by the Secretary of State. All these officers have now returned to their respective divisions. In conjunction with the Extra-Mural Department of Nottingham University and with the agreement of the Lincolnshire combined probation area committee, a refresher course was arranged at Boston. The probation officers bore the expense. The probation officers who attended this course stated that they found it of considerable help and an inspiration.

PRIVATE BILL PROCEDURE

The Birmingham City Council submitted to the Association of Municipal Corporations an interesting memorandum on the procedure required in the promotion of local legislation and particularly with regard to towns meetings and towns polls. It appears that the formalities prescribed by the Borough Funds Act, 1903, and the Local Government Act, 1933, are in these respects generally as laid down nearly a hundred years ago and it is argued, very properly we suggest, that the procedure is unsuited to present-day conditions. A county council may promote a Bill without obtaining the consent of the electors under the County Councils (Bills in Parliament) Act, 1903, and special provisions are also made by the Local Government (County Boroughs and Adjustments) Act, 1926, in respect of a Bill solely to constitute a borough as a county borough or to extend the area of a county borough. The association pressed in 1951 for the repeal of the requirement as to towns meetings and towns polls, and on considering the Birmingham memorandum, decided to urge the government that amending legislation should be introduced as soon as possible. This is so clearly reasonable and was recommended by the Royal Commission on Local Government in 1929 that it is surprising that the Government has not yet taken any action in the matter. As was pointed out by the city council the requirement that a " public meeting of local government electors shall be held " is an impossibility in a large city like Birmingham with an electorate of 772,000 if it is contemplated that more than a minute part of the electorate is to be present. Furthermore, it is impracticable to institute an effective check that those who attend a towns meeting are qualified to be there. It only requires 100 electors to demand a poll and then arrangements have to be made to provide for the whole number of the electorate who have the right to vote. On the last occasion of a poll in Birmingham, the cost was approximately £5,500 although a very small percentage of the total electorate voted.

In the various towns polls which have been taken in Birmingham since 1874, the highest percentage of voters was fourteen but generally

has been not higher than eight *per cent*. We are sure there will be general agreement with the view that the present procedure for the consideration of the matters to be included in a proposed local bill and for the advertising of the deposit of the Bill in Parliament affords adequate consideration being given to the matter together with ample publicity and that there can be little justification for a procedure which compels a promoting local authority to withdraw the whole Bill, or at least important clauses therein, as a result of the voting at a towns poll by a very small percentage of the electorate.

COASTAL FLOODING

The Departmental Committee on Coastal Flooding has issued its final report. Various suggestions for amending the existing machinery of coast defence were made to the committee, including one whereby responsibility would be removed from local authorities and placed upon the central government. This view was not supported. Another suggestion was made that even if this remains a local government responsibility it should be placed under one type of local authority instead of being divided as at present between two authorities—river boards and local authorities—and that the central responsibility should be that of one Minister and not of two—the Ministry of Agriculture and Fisheries and the Ministry of Housing and Local Government. Again the committee considered that the present arrangements should continue. Although the responsibility rests with county borough councils and the councils of county districts, capital contributions on the basis of betterment are payable by owners of property affected. Grants are also payable from the National Exchequer. In the case of works carried out by a borough or district council the county council must also make a contribution, the amount of which may be decided on appeal by the Minister of Housing and Local Government. The committee recommends that this procedure should continue.

The committee was impressed by the fact that much of the damage done by the 1953 floods was the result of sporadic ill-considered development near the coast which lead to unnecessary expense, both by way of payments from the Lord Mayor's Fund and of additional expenditure on restoration and improvement works. The machinery for preventing such development already exists under the Town and Country Planning Act, 1947, and the committee suggests that all possible steps should be taken to prevent further undesirable development, and that full use of the machinery of the Act should be made. It emphasizes the importance of local planning authorities consulting river boards on suggestions for development which may involve drainage considerations, including flooding. But it is agreed that river boards should not be given definite powers to prevent such development.

On the maximum standard of protection to be afforded by public authorities against flooding it is recommended that this should, in general, be that sufficient to withstand the flooding of January, 1953, and this should be provided where flooding would affect a large area of valuable agricultural land or would lead to serious damage to property of high value such as valuable industrial premises or compact residential areas. Elsewhere, the defence should be at a standard which would reasonably have been thought adequate before the flooding of January, 1953. It is agreed, however, that in certain circumstances higher or lower standards might be appropriate but that anyone requiring such a high standard should pay for it himself. Where an area is within the statutory authority of both a river board and a coast protection authority it is recommended that agreement should be reached between them as to the responsibility for works within their statutory powers and that in cases of doubt the departments should take administrative action to secure agreement. If agreement could not be secured administratively and legislation became necessary such legislation should allot appropriate portions of the cost to each type of authority by means of a schedule. As to those few areas where a part of the coast is exposed to danger from erosion or flooding and where the execution of protective works is prevented by lack of power it is suggested that the departments should consider what action could properly be taken.

FLUORIDATION OF WATER SUPPLIES

The report made last year on Fluoridation in the United States has led the British Dental Association to suggest to the Ministry of Health that, as part of a national campaign to prevent dental decay, fluoridation of water supplies should be carried out in this country. The matter has received much publicity at Norwich as the city council was invited by the Ministry of Health to become the first authority in the country to participate in a seven years' pilot scheme. This was approved by the Health and Water committees, but their recommendation was not approved by the council. It seems from the *Eastern Daily Press* that public opinion had been aroused from the fear of the consequences of such action, even although the investigation in the United States had shown that there was no evidence that fluoridated water was harmful in any respect. But it had shown that there was a great improvement in the incidence of dental caries among children and young people where fluoridated water was being used. As showing the degree to which public opinion had been aroused the city council was informed that "There are many Norwich citizens who would go to prison if by so doing they were excused the indignity of this experiment on them as individuals." In support of the proposal it was stated that not only had useful action been taken in the United States but that Germany, Holland and Switzerland had organized pilot schemes similar to that suggested in Norwich. The proposal had also been supported by the Norwich Health Executive Council and the various medical officers of health in the area had stated that they were quite satisfied that the application of fluoride to the water would be of considerable help in reducing dental caries and that there was no known risk to the health of the people. The family doctors in Norwich had also agreed that it could do no possible harm.

In a matter like this, however, it is important that action should be supported by public opinion and as was put by one member at the council meeting "if we are to be an experimental area we must obtain as much public support for it as we can. It would be morally wrong to do this to Norwich water until we can be certain that the majority of the people want it." Apparently great excitement had been aroused in the district by people who had convinced themselves and were trying to convince others that Norwich was being persuaded to submit to a process of slow poisoning. Those who agreed with the proposal must now be equally active as their opponents in educating public opinion in their support, if action is to be taken.

ROAD ACCIDENTS—MARCH AND APRIL, 1954

Road casualties in April numbered 17,411. Of this total 344 were killed, 4,151 seriously injured and 12,916 slightly injured.

Compared with April, 1953, the total shows a decrease of 480. The number of killed was unchanged but there was a decrease of 318 in the seriously injured and of 162 in the slightly injured.

These figures are provisional.

Final figures for March give a total of 15,969. This was 129 more than in March, 1953, and included 369 killed, an increase of 12; 3,814 seriously injured, a decrease of 66; and 11,786 slightly injured, an increase of 283.

A comparison of road casualty figures for the first three months of the year with those for the same period of 1953 brings out the fact that while fewer child pedestrians were killed and injured there were many more casualties among adult pedestrians. The figures (with increases or decreases shown in brackets) are:

	Killed	*Killed and injured*
Pedestrians under fifteen	104 (−48)	5,090 (−290)
Pedestrians fifteen and over ..	454 (+67)	7,609 (−481)

In March the upward trend in adult pedestrian casualties became more pronounced. There were 149 deaths, an increase of 52 on the previous March; and the casualty total among adult pedestrians was 2,507, an increase of 278.

PARENTAL CONTRIBUTIONS

When a child is committed to the care of a local authority or sent to an approved school under the Children and Young Persons Act, 1933, or comes into the care of a local authority under the Children Act, 1948, it is the duty of the persons specified in s. 24 of the Act of 1948 to make contributions. In the case of "fit person" and approved school orders the magistrate can, when making the order, at the same time make an order requiring the person liable to contribute to pay such weekly sum as, having regard to his or her means, the court think fit. Furthermore, a contribution order may be made at any time, in respect of a child in the care of a local authority or committed to an approved school by a magistrates' court having jurisdiction in the place where the person to be charged was for the time being residing. There is, however, no power to make a contribution order retrospective to the date when a child or young person came into the care of the local authority; and accordingly a contribution order may not be made in respect of a "short stay" case, after the child or young person has ceased to be in the care of the local authority. It is useful, therefore, that the statutory provisions do not preclude a local authority from making an agreement with the person liable to contribute, the consideration for such an agreement being an undertaking on the part of the local authority not to institute proceedings for an order so long as the contributions are paid. The general policy to be followed by local authorities in the assessment of liability for parental contributions has been considered jointly by the County Councils' Association, the Association of Municipal Corporations and the London County Council and has resulted in advice prepared by their financial advisers being transmitted to the local authorities concerned for their information and guidance. A scale approved by a local authority either on its own initiative or on the advice of its association does not of course in any way bind a magistrates' court in deciding the amount of an order but it may help them if they know the rate which would be included in a voluntary agreement with a parent particularly as it appears that often their orders are on a lower basis.

REVIEWS

Whillan's Tax Tables and Tax Reckoner, 1954-5. By George Whillans. London : Butterworth & Co. (Publishers) Ltd. Price 5s. post free.

Once more we have the pleasure of noticing this most useful publication. Brought up to date so as to include changes made by this year's budget it gives as usual, in a small form, all the figure information that is needed in an office handling payments, or checking income tax assessments, and so forth. The tax chart shows the tax chargeable or the relief allowable on various amounts at six different rates. A valuable new feature is the two-ninths table for calculating earned income relief. There is a grossing up chart at 9*s*., which will be useful to many taxpayers receiving dividends from which tax has been deducted at the standard rate. The central table shows the rates of tax and of relief for the tax years since April 6, 1947, and also the rates for 1938-39 used for calculating certain free of tax annuities. As usual the tables give also national insurance contributions and benefits, rates of estate duty, and P.A.Y.E. codes. The tables even include officer's uniform allowances for the forces, and fees on the registration of companies and a list of defence bonds. As in previous years the tables are available at the reduced charge of 4*s*. 6*d*. a copy, if more than six but less than twenty-five copies are ordered, and 4*s*. a copy for twenty-five copies or more. The finance offices of local authorities, and the accounting staff of big business undertakings, should therefore be supplied with enough copies for all members of the staff handling tax matters.

A Guide to the Housing Repairs and Rents Act, 1954. By Ashley Bramall. London : Sweet & Maxwell, Ltd., Stevens & Sons, Ltd. Price 8s. 6d. net.

This publication is Current Law Guide No. 11, and the firms responsible are to be congratulated on making it available so soon after the passing of the Act, which received Royal Assent on July 30, 1954. The Act is complicated, and alters several provisions of the Housing Acts, Rent Restrictions Acts, and related legislation, to give effect to the policy of the Government set out in their white paper, Cmd. 8996 of November, 1953. The expository portion of the book comprises not quite one hundred pages, after which the Act of 1954 is printed in full without notes, followed by the Housing Repairs (Increase of Rent) Regulations, 1954, and the Rent Restrictions Regulations, 1954. Like other booklets in the same series, it is paper covered and of a size that can be carried in the pocket, if need be, and the layout of the type is economical, without much margin or blank space. Nevertheless, the printing is arranged in such a way that topics can easily be found, and all sections of the Act of 1954, when mentioned, are given in thick type. As the learned author justly states in his preface, the Act of 1954 is not easy to understand ; many of its provisions produce their legal effect by introducing new complications into statutes already sufficiently complicated. This process lends force to the demand for consolidation of the Rent Restrictions Acts, an enterprise which everyone concerned knows to be desirable, but which few people (in the world as it is) expect any government to undertake. In this jungle of legislative provisions, Mr. Ashley Bramall has succeeded in making the law, as it stands at the moment, accessible within reasonable compass, and as comprehensible as its nature will allow.

Selected Topics on the Law of Torts. By William Lloyd Prosser. Michigan, U.S.A.: University of Michigan Press, Ann Arbor, Michigan. Price $6 net.

We have remarked before upon the advantage which the academic lawyer and serious law student in the United States derive, from causes which operate more fully there than here. One of these is the availability of funds for publishing legal essays and the like, and the other the immense variety of courts and jurisdictions, all contributing to the growth of law. While it must be admitted that this sometimes leads to inextricable confusion between one State and another, it also means that several legal principles, common to the whole country, are examined and re-examined more often than can happen in our own country, or even in the British Commonwealth considered as a whole.

The University of Michigan Law School possesses an endowment established by one of its former pupils, which finances a lectureship in memory of Thomas Cooley, once Dean of the School ; this endowment has already been used to produce several series of lectures on the development of law and equity in the United States. The present lectures, five in number, were suggested by way of following up a treatise on torts which Cooley had published eighty-five years ago, a treatise which was among the first in the English speaking world devoted specifically to that subject. The lectures accordingly re-examine, in the light of American decisions and of the newest research, a number of topics which are of just as much interest in the other common law jurisdictions of the world as in the United States. " Comparative negligence " is our old friend " proximate cause," of which Lord Atkin remarked in a lecture a few years ago that it might be thrown out of the window but would keep on reappearing. " Interstate publication " deals with the problems, much more acute under the conditions of North America than they could be elsewhere, of conflicting laws about defamation, in a geographical area where the printed word and the broadcast word (and now television must be added) circulate without regard to boundaries.

" The principle of *Rylands* v. *Fletcher*," covering fifty-six pages, may be said to explain itself ; all that need be said about it here is that it is a suggestive and stimulating essay on an ever-recurring topic.

" Palsgraf revisited " may not at first suggest much to the English reader, although the learned lecturer describes *Palsgraf* v. *Long Island Railroad Company* as perhaps the most celebrated of all cases upon tort. The facts were in themselves fantastic, and to set them out here would spoil the story. It is enough to say that the case fell to be heard by thirteen judges, of whom seven were against the decision which, for hierarchical reasons, eventually prevailed, that the advisers of the Restatement of Torts were again almost equally divided—and this upon a case in which the great Cardozo himself had said that no reasonable man could reach other than one decision.

" Business Visitors and invitees " ; " the borderland of tort and contract," and "*res ipsa loquitur* in California " sufficiently suggest the topics dealt with under these headings. It is interesting to notice that the lecture about California is the longest in the book ; it is full of examples drawn from Californian history, and paralled by well-known English cases.

Six dollars is in these days a lot of money, especially when the book has to be obtained from the United States, but the lawyer who is interested in the theory and development of the law will find in these 450 pages of lectures (followed by 150 pages in double column of case references, showing the complexity of the legal system dealt with) a source of entertainment and instruction which should last him over a long holiday or many winter evenings.

The Trial of John Thomas Straffen. Edited by Letitia Fairfield, C.B.E., M.D., Barrister-at-Law and Eric P. Fullbrook, Clerk to the Justices, Reading County. London : William Hodge and Co., Ltd., 86, Hatton Garden, E.C.1. Price 15s. net.

This volume well deserves a place in the Notable British Trials series because of the important and unusual features that attended the proceedings.

The facts are fresh in the memory of most of those who followed the case in its various stages. It was the story of a terrible murder by a mental defective, his victim being a little girl. Straffen had not long before been charged with the murder of two other little girls, found unfit to plead and sent to Broadmoor, from which he escaped for a few hours during which he committed the crime with which the present book deals.

The public was somewhat bewildered. If he was sane enough to be convicted and sentenced to death, how was it that so recently he had been found insane and unfit to plead ? If he was then unfit to plead, how had he made so marked a recovery ? There was also the concern felt about the escape of a dangerous homicidal patient from Broadmoor. About this there was, very properly, an investigation. One other extraordinary incident was the indiscretion of a juror which necessitated the discharge of the jury and the re-opening of the trial before another.

No better editors could have been found for the task of writing about the Straffen case. Dr. Fairfield has a great reputation in the field of mental deficiency and its treatment, with long experience to add to her learning and knowledge. Mr. Fulbrook is the clerk to the justices in the division in which the preliminary hearing before examining justices took place. Together they have given a short but entirely sufficient account of the tragic events, together with the story of Straffen's early history and background, his certification as a defective and his life in institutions and later at work. The legal points involved are so lucidly explained that any reader, without needing legal or medical knowledge can understand them.

The outstanding point of the trial was the way in which it brought out the essential difference between mental deficiency and insanity, the one being a state of incomplete development, the other a diseased state of a mind that may well be highly developed. The law provides special treatment for mental defectives guilty of crimes, but not in the case of capital offences. Consequently, in order to secure a verdict of guilty but insane the defence has to bring the case within the MacNaghten Rules, and though it may be illogical, such a defence

has sometimes succeeded in the case of a defective charged with murder. The medical evidence in the *Straffen* case was not such as to satisfy the jury that the prisoner was insane and within the scope of the MacNaghten Rules, and the verdict was guilty. Sentence of death was pronounced, but not carried out. The result of an inquiry and report to the Secretary of State led to the commutation of the sentence, and Straffen will be detained during Her Majesty's pleasure.

The learned editors discuss the possible amendment of the law as to responsibility. Scots law differs from English on questions of diminished responsibility, and here is a basis for discussion.

There was undoubtedly a considerable body of opinion that it would be better that Straffen, a pitiable creature, should die. But, as the editors show, all that took place was according to law. Lord Justice Denning, in referring to the *Straffen* case when addressing a meeting, emphasized the fact that it was not the law that a man should be put to death because people in authority or anyone else thought it best that he should be put out of the way.

As in all the volumes in this series, the proceedings are fully reported, there are useful appendices, and the illustrations and plans are helpful and interesting.

The Neglected Child and the Social Services. By D. V. Donnison. Manchester University Press. Price 12s. 6d. net.

This is a study of the work done in Manchester and Salford by social services of all kinds for 118 families whose children came into public care. It is abundantly clear from the investigation, which was planned by Mrs. Barbara Rodgers, lecturer in social administration at Manchester University, that there was no lack of welfare workers and inspectors who were concerned with these families as no less than twenty-three different social services were able to provide information. In referring, however, to the help given to the children it is pointed out that the children's officers concentrate upon children after coming into care which perhaps, in the view of the author, accounted " for the ignorance of the department of the previous history and home backgrounds of many of its children." In several instances visitors from various organizations—statutory and voluntary —must between them have put in at least fifty years' work in regular visits to one household. One family had been visited regularly by the Public Health Department for thirteen years, the N.S.P.C.C. had been calling intermittently for fourteen years and the school welfare officers made frequent visits for five years ; the public assistance committee had given them occasional help over a period of twelve years ; the housing department had to pay particularly close attention to them ever since rehousing them six years earlier ; the Family Service Unit had been calling frequently and the Mental Health Service and the Mental Welfare Council had also been concerned. Further, a probation officer had been supervizing one member of the family for a year, the sanitary inspectors and children's department had been in touch with them fairly often—and there were also others. These organizations had between them put in the equivalent of over sixty years in visiting, supervising, and helping this family of seven including five children. Nevertheless, the children ultimately came into the care of the local authority. This multiplicity of visitors must sometimes produce conflicting demands upon the families and is a matter which should receive consideration by the authorities concerned as also the conclusion of the author that if such families are to be helped at all, then the visits of one worker, prepared to help in any way possible, would be less of an interference than several of them calling for different reasons. She suggests that which service would be chosen to assume responsibility for any given family would depend on which worker appeared to be in the best position to help.

LAW AND PENALTIES IN MAGISTERIAL AND OTHER COURTS

No. 70.

A CONTRAVENTION OF THE DANGEROUS DRUGS REGULATIONS

A Penrhyn Bay chemist appeared before the Llandudno magistrates recently charged with failing to keep a record of the supply of morphine, contrary to reg. 17 (1) (*a*) of the Dangerous Drugs Regulations, 1953.

For the prosecution, evidence was given that a routine police inspection showed that there was no record of a considerable amount of morphine that had been supplied to a local doctor for the use of an elderly patient between July of last year and June this year. The explanation given by the defendant was that the doctor owed some prescriptions and that he (the defendant) had at first been in the habit of supplying the patient direct but because of the large quantity involved he had suggested that the doctor should be in charge of it. The amounts were entered in the register when the doctor supplied the prescriptions.

For the defendant, who pleaded Not Guilty, it was stated that his action in supplying the morphine to the doctor had been for the good and a record of a sort was kept, and for this reason it was urged that there had not been a breach of the regulations.

The chairman, announcing the decision of the court to convict, said that it was a serious offence, and that although the defendant might be entitled to a certain amount of sympathy, the bench felt they had no option but to impose a fine of £10 and to order payment of £4 4*s*. costs.

COMMENT

The Dangerous Drugs Regulations, 1953, made under the provisions of the Dangerous Drugs Act, 1951, are frequently amended on account of improved scientific knowledge, and it is to be noted that by virtue of three new Orders (S.I. 1030, 1029 and 1047 of 1954) which came into force on August 16, 1954, the regulations of 1953 have been amended in material respects. By reg. 17 of the 1953 Regulations, every person who is generally authorized or licensed to supply drugs or preparations must keep a register and enter therein in chronological sequence in the form specified in the first schedule to the regulations, true particulars with respect to every quantity of any drug or preparation obtained by him and with respect to every quantity of any drug or preparation supplied by him, whether to persons within or outside Great Britain. Subparagraph 1 (*b*) of the Regulation provides that a separate register is to be kept in respect of certain classes of drugs and preparations which are specified in the third Schedule to the regulations.

Regulation 32 sets out in great detail the requirements in regard to registers to be kept.

The regulations themselves are not easy for the layman to comprehend, but they do endeavour to secure that a proper check is kept upon the movement of drugs and preparations which are liable to prove harmful if taken other than under proper medical supervision.

(The writer is indebted to Lt.-Col. J. D. Porter, O.B.E., D.L., M.A., clerk to the Conway-Llandudno justices, for information in regard to this case.) R.L.H.

No. 71.

BURNING GRASS ON OPEN MOUNTAIN LAND

A nineteen-year old soldier was the defendant in a case heard recently at Maesteg magistrates' court in which the charge was that the defendant on a day in April of this year, being a day within the prohibited period of burning, unlawfully did burn grass on open mountain land at Caerau, contrary to reg. 4 of the Heather and Grass Burning (England and Wales) Regulations, 1949, and s. 20 of the Hill Farming Act, 1946.

For the prosecution, evidence was given by a foreman of the Dunraven Forest, Caerau, who said that on April 16 last he was on fire patrol at the forestry and saw a grass fire on a section of mountainside immediately opposite. The wind at the time was strong, and was causing the flames to spread rapidly towards the forestry commission's property, so endangering newly planted trees. Witness rushed to the scene of the fire and, with the assistance of another fire patrol man and some local children, was able to get the fire under control and put it out before damage had been caused to the forestry property. Had the forestry caught alight, the damage would have been great in view of the strength and direction of the wind.

A police constable gave evidence of an interview with the defendant at which the defendant made a written statement to the effect that on the day in question he had been drinking with another man at Caerau and went up the mountainside for a walk. He had asked the other man for a match and lit it, lit a cigarette, and then deliberately put the match on the dry grass (it was a fine warm day) and caught it alight. He walked two or three yards with a handful of heath, which was alight, and set fire to more grass. " I could see the fire was getting too big so AB and I made off to home and left the fire. I put my foot over it but could not put it out, so I left it. I did not realize it would spread to the forestry. I am sorry now for what happened."

The defendant, who did not appear, was fined £3.

COMMENT

At the time of writing, it seems almost unbelievable that grass and heather could be set alight in this manner, but in more normal summers it is all too often the case that heavy damage is caused by irresponsible actions similar to that outlined above.

Regulation 4 of the 1949 regulations forbids the burning of grass or heather on any land between March 31 and November 1 in any year,

except in accordance with the conditions of a licence issued by the Minister of Agriculture and Fisheries—the licence may be general or special.

Regulation 6 provides that at no time of the year may a person commence to burn heather or grass on any land between the hours of sunset and sunrise, and that at all times when authorised burning is taking place sufficient persons and equipment to control and regulate the burning must be at the place of burning during the entire period of the operation and that all reasonable precautions to prevent damage to any adjacent land, timber, crops, etc., are to be taken.

Section 20 of the Hill Farming Act, 1946, which gave the Minister power to make the regulations, provides in subs. (2) that a contravention of the Regulations may be punished on summary conviction with imprisonment for one month and a fine of £5.

(The writer is greatly indebted to Mr. David Llewellyn, clerk to the Newcastle and Ogmore justices, for information supplied in regard to this case.) R.L.H.

PENALTIES

Tredegar—July, 1954. Making a false declaration for the purpose of obtaining National Insurance Benefit. Fined £10. Defendant, a widow with three children, working as a nurse, received £264 more than she was entitled to by claiming full widow's pension. She was now repaying the money at the rate of 25*s.* a week.

Richmond—July, 1954. Stealing postal packets containing a total of £3 10*s.* (two charges). Fined £50 and to pay £3 3*s.* costs. Defendant, a higher grade postman with fifteen years' service, asked for four similar charges involving £3 tc be taken into consideration.

Blackpool—August, 1954. Stealing, as a servant, 2,953 bottles of beer and 55 bottles of stout. Fined £25, and to make restitution of the value—£106. Defendant, the head cellarman at Blackpool Tower, drank the beer in a period of nine months and concealed the shortages by placing the crates containing the empties in the middle of a very big stack of crates.

Flint—August, 1954. (1) Stealing Eccles cakes value 2*s.* 3*d.* (2) Stealing a 2-*lb.* loaf of bread. (3) Stealing a bottle of milk. Fined £4 on each charge and to pay £1 8*s.* 6*d.* costs. Defendant, a married man of thirty-eight, was stated to be able-bodied but to have worked only thirty-three days since April, 1953. Defendant asked for fifteen other charges to be taken into consideration.

Brighton—August, 1954. Stealing £2 by means of a trick. (Two defendants, each fined £10.) Defendants, a bookmaker and his clerk, accepted a bet from a woman and the horse won. She went to defendant with the ticket but he denied that the ticket was his. A police inspector found seven different names on tickets in a box at defendant's stand.

Middlesbrough—August, 1954. Unlawful possession of dangerous drugs. Three months' imprisonment and fined £25. Defendant, an Indian seaman, admitted that he had been smoking and eating Indian hemp (hashish) since he was ten years old.

Lewes—August, 1954. Fishing within British territorial waters. Fined £20, to pay £5 5*s.* costs, and all fishing gear, except one warp, confiscated. Defendant, a twenty-six year old skipper of a French trawler. His vessel was found fishing with her lights out within the three mile limit. The vessel had a fifty-stone catch on board, a substantial quantity of the fish being below the permitted size.

ADDITIONS TO COMMISSIONS

NORTHUMBERLAND COUNTY

Miss Catherine Armstrong, Wall View, Greenhead, via Carlisle.
Major John Elliott Benson, West Martin, Wooler, Northumberland.
Thomas Elliott Bramwell, Burnside, North Road, Gosforth, Newcastle-on-Tyne.
Mrs. Sarah Cowey, 25, Kingsley Road, Lynemouth, Morpeth.
Mrs. Christine Mary Davidson, Galagate House, Norham-on-Tweed.
John Austin Thomas Hanlon, Hartburn, Morpeth.
Stephen Burgess Hewitt, TD., Weighburn House, Thropton, Morpeth.
Lt.-Col. Henry Rice Nicholl, Low Houses, Brampton, Cumberland.
John Rydel Riddle, Thornleigh, Elvaston Road, Hexham.
Mrs. Marcia Robison, Hougill, Halywhistle.

HUNTINGDON COUNTY

James Harold Bradshaw, 74, High Street, Huntingdon.
Reginald Arthur Pateman, 61, Huntingdon Street, St. Neots.

PERSONALIA

APPOINTMENTS

Mr. Edward John Bowers, LL.B., has been appointed deputy town clerk of Dartford, Kent. Mr. Bowers, admitted in July, 1940, has been assistant town clerk of Wembley, Middlesex, since March, 1949. He was formerly assistant solicitor to Luton, Beds., borough council.

Mr. Victor H. Mellor, assistant solicitor to Margate, Kent, borough council, has been appointed deputy town clerk of Malden and Coombe, Surrey, in succession to Mr. Sydney Astin, whose appointment as town clerk of East Barnet, Herts., was reported at 118 J.P.N. 474.

Mr. Kenneth Alwood Round, LL.B., has been appointed clerk to the petty sessional divisions of Alfreton, Belper and Matlock, Derbyshire. Mr. Round was articled to the late Alderman A. J. Cash of A. J. Cash & Sons, solicitors, of Derby, being admitted in October, 1943. From December, 1945, until February, 1947, Mr. Round was clerk and solicitor to the Wirksworth, Derbyshire, urban district council, and from March, 1947, until February, 1949, was assistant prosecuting solicitor for the county of Kent. His present appointment is as first assistant prosecuting solicitor for the county of Essex, a post Mr. Round has held since February, 1949.

Mr. B. T. Basford has been appointed clerk to Halesworth, East Suffolk, urban district council. He has been administrative assistant and rating officer to Witham, Essex, urban district council for the past seven years, after previously serving in Clacton urban district council. Mr. Basford begins his duties on September 20.

Mr. Edward Honbrook has been appointed superintendent and deputy chief constable of York, succeeding Superintendent C. T. G. Carter, who becomes chief constable of the city in September, as reported at 118 J.P.N. 347. Mr. Honbrook is at the moment superintendent of "A" division of Swansea county borough constabulary. He joined Swansea police as a cadet clerk in 1928, and received regular promotions, the last being to his present position in 1946. Mr. Honbrook is expected to take up his new appointment in October.

Superintendent Richard B. Matthews has been appointed assistant chief constable, East Sussex, in succession to Mr. J. E. Bailey, whose appointment as chief constable for Oxfordshire was reported at 118 J.P.N. 362.

Mr. R. A. Andrews, D.P.A., of the clerk of the council's department of London County Council, has been appointed secretary of the British section of the International Union of Local Authorities. Mr. Andrews succeeded, on August 1, Mr. B. Bligh, who had resigned from the position on accepting an appointment outside the service of the London County Council.

ANNIVERSARY

Mr. W. Stanley Clarke, town clerk of Beccles, Suffolk, has just completed forty years service with the council of the borough. Mr. Clarke commenced as a junior assistant in the town clerk's office in June, 1914, and was appointed borough accountant in 1923. He became deputy town clerk in 1942 and town clerk five years later.

RETIREMENTS

Mr. William Woodward, town clerk of Bexley, Kent, borough council, is to retire in October after forty-five years' local government service. Mr. Woodward was admitted in November, 1925.

Mr. J. R. Hood, C.B.E., who has acted as legal adviser to the Ministry of Food since December, 1946, retired from the Civil Service on August 18, 1954. He was succeeded by Mr. G. E. Johnstone, B.C.L. Mr. Hood was a member of the Ministry of Food branch of the Treasury Solicitor's Department, from 1942.

BOOKS AND PAPERS RECEIVED

Breach of Promise and Seduction in South African Law. By F. P. Van Den Heever. Cape Town & Johannesburg: Juta & Co., Ltd. Price 25*s*., plus postage.

CIRCUITS OF THE JUDGES

NOTICE :—CRIMINAL BUSINESS will be taken at all Towns mentioned.
CIVIL BUSINESS will be taken only at the Towns printed in Capitals.
DIVORCE BUSINESS WILL BE TAKEN ONLY AT THE TOWNS MARKED† ONLY DEFENDED CASES WILL BE HEARD.
The Judge, or Judges visiting each Town are shown by numerals 1, 2, 3, etc.
The following Judges will remain in London :
Queen's Bench Division : THE LORD CHIEF JUSTICE OF ENGLAND, HILBERY, J., CASSELS, J., LYNSKEY, J., SLADE, J., DEVLIN, J., PARKER, J., MCNAIR, J., GLYN-JONES, J. and GERRARD, J.
Divorce Division : THE PRESIDENT, COLLINGWOOD, J. (after Birmingham October Assize) and SACHS, J.

AUTUMN ASSIZES, 1954	SOUTH EASTERN	WALES AND CHESTER	WESTERN	NORTHERN	OXFORD	MIDLAND	NORTH EASTERN	AUTUMN ASSIZES, 1954
Commission Days	*Stable, J.* (1) *Pilcher, J.* (2)	*Oliver, J.* (1) *Jones, J.* (2) *Willmer, J.* (3)	*Byrne, J.* (1) *Finnemore, J.* (2) *Karminski, J.* (3)	*Barnard, J.* (1) *Sellers, J.* (2) *Pearce, J.* (3) *Gorman, J.* (4)	*Streatfeild, J.* (1) *Ormerod, J.* (2)	*Barry, J.* (3) *Donovan, J.* (4) *Davies, J.* (5)	*Hallett, J.* (1) *Wallington, J.* (2) *Havers, J.* (3) *Pearson, J.* (4)	*Commission Days*
Saturday *Oct.* 2					READING (1)	Aylesbury (3)		Saturday *Oct.* 2
Monday .. „ 4	Hertford (1)	†Caernarvon (1)	Salisbury (1)	†CARLISLE (4)				Monday .. „ 4
Tuesday .. „ 5						Bedford (3)		Tuesday .. „ 5
Thursday .. „ 7			Dorchester (1)					Thursday .. „ 7
Friday .. „ 8		Ruthin (1)			OXFORD (1)		†NEWCASTLE (3, 4)	Friday .. „ 8
Saturday .. „ 9								Saturday .. „ 9
Monday .. „ 11	CAMBRIDGE (1)			Lancaster (4)		Northampton (3)		Monday .. „ 11
Tuesday .. „ 12			Wells (1)		WORCESTER (1)			Tuesday .. „ 12
Wednesday .. „ 13		†CHESTER (1, 2)				†LEICESTER (3, 4)	†DURHAM (3, 4)	Wednesday .. „ 13
Thursday .. „ 14								Thursday .. „ 14
Monday .. „ 18	†IPSWICH (1)		†BODMIN (1)	†LIVERPOOL (1, 2, 3, 4)	†GLOUCESTER (1) †NEWPORT (1)	†LINCOLN (3, 4)		Monday .. „ 18
Tuesday .. „ 19								Tuesday .. „ 19
Wednesday .. „ 20								Wednesday .. „ 20
Thursday .. „ 21								Thursday .. „ 21
Monday .. „ 25	†NORWICH (1, 2)		†EXETER (1, 2)			†DERBY (3, 4)	†YORK (3, 4)	Monday .. „ 25
Tuesday .. „ 26		Brecon (1)			HEREFORD (1)			Tuesday .. „ 26
Monday *Nov.* 1								Monday *Nov.* 1
Wednesday .. „ 3	CHELMSFORD (1, 2)	†Carmarthen (1)	†BRISTOL (1, 2)	†MANCHESTER (1, 2, 3, 4)	†SHREWSBURY (1)	†NOTTINGHAM (3, 4, 5)	†LEEDS (1, 2, 3, 4)	Wednesday .. „ 3
Thursday .. „ 4								Thursday .. „ 4
Monday .. „ 8								Monday .. „ 8
Wednesday .. „ 10		†SWANSEA (1, 2, 3)			STAFFORD (1, 2) †BIRMINGHAM (2, 4, 5)	Warwick (4)		Wednesday .. „ 10
Saturday .. „ 13								Saturday .. „ 13
Monday .. „ 15								Monday .. „ 15
Tuesday .. „ 16								Tuesday .. „ 16
Wednesday .. „ 17	KINGSTON (1, 2)		†WINCHESTER (1, 2, 3)					Wednesday .. „ 17
Thursday .. „ 18								Thursday .. „ 18
Monday .. „ 22								Monday .. „ 22
Wednesday .. „ 24	MAIDSTONE (1, 2)							Wednesday .. „ 24
Thursday .. „ 25								Thursday .. „ 25
Monday .. „ 29								Monday .. „ 29
Monday *Dec.* 6	†LEWES (1, 2)							Monday *Dec.* 6

CORRESPONDENCE

The Editor,
Justice of the Peace and
Local Government Review.

SIR,

COUNCIL HOUSES AND MEANS TESTS

As a clerk to justices I read your journal more with an eye to matters relating to the work of the justices than that of local government bodies, but I could not help being struck by the paragraph on council houses and means tests printed at p. 479. Naturally, tenants of council houses dislike inquiries into their means, as you say, but is this dislike not due largely to a fear that a full disclosure will reveal, in thousands of cases, that the tenants and those living with them can afford to pay an economic rent? Were a courageous local authority, conscious of the burden of housing on rates and taxes alike, to charge all tenants an economic rent and invite them to disclose reasons for reducing the rent, do you think the tenants would be so coy about their budgets? Special consideration would, of course, have to be given to those who, through age or disability, clearly require the present subsidy.

I am, Sir,
Your obedient Servant,
JOHN F. HEDGES,
Clerk to the Justices.

Magistrates' Clerks Office,
Wallingford, Berks.

[We do not dissent. Tenants, like taxpayers, will have mixed motives. If the time ever came when housing ceased to be a veiled variety of public assistance, those needing assistance would have a motive for disclosing their earnings, but there would still remain the fact that disclosure to the inspector of taxes is safeguarded, whereas disclosure to a committee cannot be.—*Ed., J.P. and L.G.R.*]

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

CONVICTING THE ACTUAL OFFENDER

As one who had, in his active days, more experience than most people of handling prosecutions in which s. 12 (5) of the Sale of Food (Weights and Measures) Act, 1926, came into the picture, I respond to your invitation.

If magistrates adopt your suggestion that the cases against the coal merchant and the alleged "actual offender" shall be heard jointly there is one thing which should not be forgotten. In prosecutions for short weight under s. 21 of the 1889 Act, the employee charged as the actual offender is either the carman or the loader. In my experience, it was usually the loader at the coal depôt. He is often unrepresented by a professional advocate; and does not know that the only person liable to conviction under s. 21 (2) is the *seller* of the coal. The employee, perhaps being afraid of losing his job, often comes to court prepared to plead guilty, although he is rarely or never the seller of the coal and (however negligent he may have been) has not "committed the offence in question." Under the Weights and Measures Acts, unlike the Food and Drugs Act, 1938, it is not enough for an employer to prove some "act or default to which the contravention is due."

The well-known case of *A. Walkling, Ltd.* v. *Robinson* (1930) 94 J.P. 73—in which I was personally concerned—makes it abundantly clear that an employee who carries for delivery or has a possession for sale or weighed up his employer's coal is not "the actual offender" and does not "commit the offence in question," *i.e.*, selling, even if his negligence has conduced to it. So courts of summary jurisdiction must always be careful not to accept a plea of guilty by an employee ignorant of the law. If the employer and his employee have made a collusive arrangement, the force of this is obviously emphasized.

R. A. ROBINSON.

52, Craven Avenue,
Ealing, W.5.

TWENTY QUESTIONS

Not to put all your eggs in one basket is an excellent maxim, but it is rare for those who disregard it to find themselves in conflict with the criminal law. Such was the unfortunate result in a recent case before the Stipendiary Magistrate at Huddersfield, Yorkshire. The manager of a large store, and the company which owned it, were prosecuted for conducting a competition in which prizes were offered to customers who could successfully guess the number of eggs in a bucket, and the respective weights of varying quantities of tea, currants and sultanas in different containers. In regard to the eggs the learned Magistrate held that the result of the competition did not depend in a substantial degree upon the exercise of skill; and he convicted and fined the defendants. The tea, currants and sultanas were in a different category; the defence had successfully submitted that "experience, intelligence and application" constituted the skill necessary to exclude any element of unlawfulness, and the summonses under these heads were dismissed.

The statutes against unlawful games go back to 1388; the government of those times (recking little of the risk of losing votes at the next election) saw to it that the people should spend their spare time, profitably, in the practice of archery, and not idly in the pursuit of sports and pastimes, however free from the taint of gambling. The Statute of 1541 (33 Hen. 8, cap. 9), intituled "A Bill for the Maintaining Artyllery and Debarring of Unlawful Games," imposed penalties upon those who kept for gain any common house or place of bowling, tennis, and certain other games of skill, and upon those who played them there, equally with "dicing, tables, carding . . . or any unlawful new game." Subsequent statutes have repealed the prohibition so far as games of skill are concerned, and the present law is laid down in the Gaming Act, 1845.

The invidious distinctions which arose in the recent case may surprise the lawyer no less than the layman. The late G. K. Chesterton, in *The Flying Inn*, quite unjustly pilloried a respectable and useful community of retailers in the words:

> "God made the wicked Grocer
> For a mystery and a sign:
> That men might shun the awful shop
> And go to inns to dine;"

following up this jaundiced generalization with some defamatory remarks about putting sand in the sugar and dust in the salt, and other acts of adulteration which, whatever their prevalence in his day, must now be extremely rare. Yet even he, prejudicially disposed as he was against what used to be known as the "general stores," never went so far as to impute to the victims of his satire a greater degree of wickedness in relation to eggs than to any other of their commodities.

There may, of course, be something in the fact that a pound of tea is (or ought to be) homogeneous in texture, and that one currant or sultana is not substantially unlike another—not at any rate to the naked eye. With eggs it is another matter; they vary, not only (as the curate in *Punch* unexpectedly discovered) in their intrinsic virtues, but also in their superficial qualities of colour, size and shape. Columbus was able to puzzle the court of Ferdinand and Isabella with the problem of how to make an egg stand up on its end; but even he might

have been hard put to it to estimate the number of eggs that would go into a bucket, having regard to their varied dimensions and unyielding surface, and to the exigencies of spacing resultant therefrom. Apart from these obvious difficulties, unless the rules of the competition were settled by counsel in advance, it may be doubted whether they expressly stipulated " hens' eggs." No such limitation is necessarily to be implied. What is to prevent the organizer of the competition, if he has that kind of mind, from slipping in, at the bottom of the bucket, some assorted specimens laid by sparrows, plovers, geese, vultures—or even ostriches, for the matter of that? (Rocs' eggs may be harder to come by, these days, but the principle is the same.) There is nothing new in the idea: it goes back to antediluvian times, as witness Chesterton (*ibid*) once more:

" Old Noah, he had an ostrich-farm, and fowls on the largest scale;
He ate his egg with a ladle, in an egg-cup big as a pail."

If it were not for these awkward divergences, the game would, we imagine, resolve itself into a problem in solid geometry and, as such, not a game of chance—perhaps no game at all. Few of us, however, attain that standard in our mathematical studies, as was vividly demonstrated in the witness-box. The ingenious detective chief-inspector who conducted the prosecution countered the argument of the defence—that the estimates were substantially a matter of skill—first by what Euclid would have called the *a fortiori* method, and later by *reductio ad absurdum*. First, the secretary of the company—a witness for the defence—was himself invited to estimate the number of oranges in a bucket: his guess was a hundred, but a count revealed only forty-three. He immediately complained (like the disgruntled bridge-player in the story, who picked up a hand of thirteen trumps) that " some of them were *very* small ones." This was the moment for the chief inspector to play his ace. An obliging constable, in the interests of justice, lent his helmet, which was then filled with snooker-balls, and the witness was invited to guess their number. Now, it is true that the tortuous wit of W. S. Gilbert, in *The Mikado*, conceived of making such objects elliptical in shape, as a device for the tormenting of convicted " billiard-sharps "; but nobody in real life has ever seen them, or heard of their being, anything but spherical. It should therefore have been possible for the witness (who had insisted that the original competition depended substantially upon skill), being in a position to observe (*a*) the helmet and (*b*) a specimen ball, to estimate their respective diameters, and by the aid of a simple mathematical formula (Jones *minor* tells us it is $\frac{4}{3} \pi r^3$) to arrive at a pretty accurate answer. The result, needless to say, was a fiasco. His guess was thirty-six; the actual number was twenty-eight.

Following upon this devastating achievement, the court was gripped by a fever of empiricism. Prosecution, defendants, witnesses and police—everybody wanted to " have a go." A blushing constable failed ignominously to assess the weight of a bowl of meal; a tight-lipped detective-sergeant proved hopelessly wrong with a box of marbles. The ladies, valiantly stepping into the breach where mere men had been worsted, fared little better. A smart woman sergeant was deceived in the weight of a plate of sugar, and a police-matron, with forty years' shopping experience, came a cropper over the number of peas in a jar. The only persons, so far as we can see, who abstained from joining in this fascinating parlour-game were the learned magistrate and his clerk; and they must have been busily enough engaged in keeping the score.

Spectators in the public gallery are believed to have been laying long odds against an acquittal, and they seemed to have got away to a flying start when a fine of £15 was imposed on the company, and of £5 on the shop-manager. The secretary and four of the directors were among the " also ran," and much excitement was caused by the premature notification of £5 fines on each of them. Loud sighs of disappointment went up from the backers on the subsequent announcement that these runners had been disqualified. The summonses against the last-mentioned five had been issued in connexion with the charge that had been dismissed, not the one that had led to convictions, and they were able to leave the court without a stain upon their characters. They have no idea why this should be, and they are still trying to guess the correct answer. A.L.P.

MAGISTERIAL MAXIMS No. XV

Not so many Years since, there lived a Clerk to Justices who, being of a somewhat Mean and Parsimonious nature, did not Believe in buying New Text Books or Current Legal Periodicals, relying, to Keep Abreast of Changing Legislation, on the study of a Great and Ancient daily Newspaper; an Excellent Course of Conduct, recommended to All, but to the Discerning, scarcely Sufficient of itself to make for the Maximum of Legal Knowledge.

For a Considerable Time, this Falsely Economical attitude of Mind worked without Mishap, and Coupled by the Clerk with a Singularly Irregular and Undignified System of borrowing up to date Volumes from Practitioners in his Court, and from Others Unwisely willing to Lend their Books (Always a Dangerous Action, fraught as it Inevitably is, with the Perils of Non-Return) enabled him to Carry out his Duties with the Minimum of Expenditure to himself.

It was Inevitable, however, that Fate would Take a Mischievous and Destructive hand in this State of Affairs, and the Clerk was one day Stricken with a Minor Illness, which, although not Serious, confined him to his bed for almost a Fortnight, during which Time he could Not be Bothered to study those Daily Columns which had supplied him with so much Legal Knowledge.

During the aforesaid Period of his Indisposition, there was Reported an Important Case, having Far-Reaching consequences on the Work and Duties of Clerks to, and Courts of, Summary Jurisdiction, a Case which, as New Text Books were Published, was Duly Noted therein, with Appropriate and Helpful footnotes for the Guidance of the Unwary.

Alas, Parsimony still Ruled the Heart of that Clerk, for he Kept his Money in his Pocket and bought Not One of such Books.

The End is easily Foretold. The Particular Point in question was one Day Raised by Learned Counsel in the Court of the Clerk, who, with Some Curtness, over-ruled the Very Correct submission that had been Made, and Advised his Bench accordingly.

The Divisional Court, though on this Occasion, Kind, was also Firm, and Reversed the Decision of the Justices, a Fact which caused them to be Somewhat Displeased with their Adviser.

The Chairman, a Classical Scholar, learned by a Roundabout Method of the Real Reason for the Error, and Seeking out his Clerk, drew his Attention, more Forcibly than Politely to the Ancient saying, " *Damnum appelandum est cum mala fama lucrum*," a proper and literal rendering of which is said to be " Profit at the Expense of Character is no better than Loss " following this up, with the Second Salvo comprising the equally Telling and Ancient Words "*Actutum Fortunæ solent Mutarier*," which herein will not be Construed, but to which will be added the Extremely Wise adage of the Anglo-Saxons. " He who spends a penny today, a Pound may save tomorrow."

AESOP II.

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Adoption—*Consents—Putative father who has agreed to pay lump sum.*

By s. 2 (4) (*a*) of the Adoption Act, 1950, no adoption order shall be made except with the consent of a parent or guardian of the infant or that of a person who *is* liable by an order or agreement to contribute to the maintenance of the infant.

An application for an adoption order is to be made to this court, in which the child, the subject of the adoption order, was also the subject of an agreement by which it was agreed that on payment of the lump sum of £500, the putative father should be absolved from all future liability in respect of the future maintenance of this child.

In view of the wording of s. 2 (4) (*a*) of the Act is it necessary for the father's consent to be obtained and notice to be given to him?

SYNREM.

Answer.

There must be a liability on the putative father under an order or agreement to bring him within the subsection as a person whose consent is required. In this case the putative father has apparently acknowledged paternity and entered into an agreement making himself liable to pay a lump sum towards the maintenance of the child. If he has paid that sum in full it may be contended that he is no longer liable under the agreement, and that may be correct. The payment of a lump sum under an agreement does not, however, appear to release him from the liability to have an affiliation order made against him, *see Follitt* v. *Koetzow* (1860) 24 J.P. 612. On the whole we take the view that it would be prudent to obtain the man's consent and to make him a respondent. If he should refuse consent, it is likely that there will be good ground for dispensing with it.

2.—Adoption—*Death of infant—Succession of his property.*

As guardian, *ad litem*, in adoption cases in two courts the question has recently been put to me about investments and savings made by parents by adoption in the name of the adopted child and what would happen to such investments and savings should the adopted child die whilst still a minor.

Would any such investments or savings go automatically to the child's natural mother or would the money revert automatically to the parents by adoption?

SINTO.

Answer.

The effect of s. 13 (1) of the Adoption Act, 1950, which deals with intestacies is to provide that the infant does not rank as a child of his natural parents for the purposes of succession to property, but does become a child of the adopters for those purposes. Equally, the adopters take the place of the natural parents so far as succession to property of the infant is concerned. Therefore, the adopters and not the natural parents take the property mentioned in this question.

3.—Costs—*Maintenance, Guardianship and Affiliation Acts orders—Enforcement while parties living together.*

Where following the making of a maintenance, affiliation or Guardianship of Infants Acts order the parties resume cohabitation before the costs and/or advocate's fee ordered to be paid have been recovered, is there any procedure by which recovery of the amount due can be effected?

SYNRIC.

Answer.

The costs are enforceable like payments due under the order, *see* Bastardy Laws Amendment Act, 1872, s. 4; Summary Jurisdiction (Married Women) Act, 1895, s. 9; Children's Act, 1948, s. 53. No sums accruing due under a maintenance or guardianship order while the husband and wife reside together, are enforceable: Summary Jurisdiction (Separation and Maintenance) Act, 1925, s. 1 (4); Guardianship of Infants Act, 1925, s. 3 (3). The law does not make any special provision as to affiliation orders in this respect, there being no relation of husband and wife but only an irregular form of cohabitation. The costs could therefore be enforced in that case if the court thought fit to enforce them.

If the court orders payment of an advocate fee, that must be as part of the costs awarded as between the parties and must be enforced the same way.

4.—Husband and Wife—*Maintenance Orders (Facilities for Enforcement) Act, 1920—Order made and confirmed—Parties now in England.*

X (a married woman) obtained a provisional order under the above Act for payment by her husband Y to her of maintenance for herself and an infant child of the marriage. This provisional order was duly confirmed by the court at Singapore within which jurisdiction Y was then living, he then being a member of the Royal Air Force.

Y has been discharged from the Service and has for some time been resident in England.

X is not now resident within the jurisdiction of my court and wishes to have the case transferred to the court within whose jurisdiction she now is.

In your opinion can the order be varied by an English court? If so, having regard to s. 3 (5) of the above Act, what jurisdiction has the court at Singapore to confirm the variation, Y not now being there?

SONTOC.

Answer.

As both the parties are now in England the procedure under the Act of 1920 is impracticable. The correct course, in our opinion, is for the wife to apply for a summons with a view to obtaining a fresh order under the Summary Jurisdiction (Separation and Maintenance) Acts, assuming that she has ground for such an application. It seems most probable that she can apply on the ground of neglect to maintain, or desertion. We dealt with a similar situation in a question and answer at 117 J.P.N. 14.

5.—Licensing—*Occasional licence—Application of the general licensing law.*

I am privileged to read your journal and read your valued opinion in your issue of March 13, in "Practical Points" on the extent to which the holder of an occasional licence is bound by the provisions of the Licensing Act, 1953, and I gather, rightly or wrongly, that s. 148 (5) applies only to the holder of an occasional licence at the premises at which and during the time his licence is in force.

Section 165 (2) construes the term "licensed premises" "... as including a reference to any premises or place where intoxicating liquor is sold by retail under a licence ..." and this definition appears to cover premises in respect of which an occasional licence has been granted under s. 151 of the Customs and Excise Act, 1952.

If this be true it would appear that persons, other than the occasional licence holder, in respect of whom the extent of his contraventions have been limited by s. 148 (5) can, where the term licensed premises is used, contravene *any* provisions of the licensing law at premises occasionally licensed as they may do on ordinary licensed premises.

OPLIC.

Answer.

The definition of "licensed premises" contained in s. 165 (2) of the Licensing Act, 1953, quoted by our correspondent, is subject to the over-riding provision "unless the context otherwise requires." Section 148 (5) of the Act very clearly contrasts "the place where intoxicating liquor is sold under an occasional licence" with "licensed premises," which may be construed as a contextual removal of the former from the definition of the latter expression; and inasmuch as the subsection prescribes those parts of the general licensing law that apply to the holder of an occasional licence, we think that it is intended to exclude all other contraventions of licensing law, by whomsoever they may be committed. Our correspondent's point, if we understand it correctly, is an attractive one; but we think that the High Court would hold that the Licensing Act, 1953, designed as a consolidating Act and passed into law under the special procedure contained in the Consolidation of Enactments (Procedure) Act, 1949, must be presumed to intend to make no change in the previous law so far as occasional licences are concerned, and will interpret this doubtful point by leaning towards this presumption of intention (*see Gilbert* v. *Gilbert and Boucher* (1928) P. 1; 137 L.T. 619). Thus, we think that what were not offences under the law in operation immediately before the coming into operation of the Licensing Act, 1953, are not offences now.

6.—Road Traffic Acts—*Registration and Licensing Regulations, 1953—Limited trade licence—Unauthorized use on a vehicle by employee without the knowledge or authority of licence holder—Offence.*

A is the employee of B who is the holder of a limited trade licence. A is given authority and instruction to take a car to a garage close to the employee's home. The car is to be left at the garage for sale. A goes to the garage, but instead of leaving it there he takes it away again and goes on a tour of a town some ten miles distant for a purpose entirely personal to himself. He is seen at midnight in possession of the car and trade licence and with two passengers. The holder of the licence denies any authority for the use of the licence for this jaunt.

Your advice on the following points would be greatly appreciated.

(*a*) Can A be convicted of the unlawful use of the trade licence as against reg. 30, art. B (3) of the Regulations or must the proceedings lie against B as the licence holder?

(*b*) What offence does A commit in your opinion? JESTO.

Answer.

We think that A's offence is that he used on a road a vehicle for which a licence under the Vehicles (Excise) Act, 1949, was not in force, contrary to s. 15 (1) of that Act. In support of this view we rely upon the judgment of Avory, J., in *Phelon and Moore* v. *Keel* (1914) 78 J.P. 247 at p. 248.

7.—Shops Act—*Closing hours—Chemists shop—Exemption.*

Within the area of this non-county borough a local branch of a nation wide firm of dispensing chemists has been keeping open in the evening during the week after the normal general closing hours prescribed by s. 2 of the Shops Act, 1950, for the sale of medicines or medical or surgical appliances. As you know, the second schedule to the 1950 Act exempts the sale of "medicine or medical or surgical appliances so long as the shop is kept open only for such time as is necessary for serving the customer" from the general provisions of s. 2 relating to general closing hours.

The position in this particular shop is that at the expiration of normal closing hours the shop is darkened with the exception of that part in which medicine, medical or surgical appliances are sold. The door is not, however, in any way locked or fastened, but remains open, and two or three shop assistants remain in the lighted portion of the shop and are available to serve medicines, medical or surgical appliances to customers. No assistant remains in that part of the shop which is unlit and it is not suggested that there is a sale of anything after general closing hours other than medicines, medical or surgical appliances. To the passing customer, however, the shop still appears to remain open after normal closing hours in that there is a light in part of the shop, and it is possible to see assistants waiting to serve anyone who might go in for medicine, medical or surgical appliances. There is no question of customers only gaining admittance after knocking on a closed door and of the door being locked after each customer has been served and further customers re-admitted when they make themselves known. As already mentioned, all the customer has to do is to walk into the shop in the same way as he does during the normal shop hours.

I should be glad to have your valued opinion upon the following points:

1. Do you consider that the exemptions contained in subss. (6) and (7) of s. 1 of the Act (read in conjunction with the first schedule of the Act), and the exemptions contained in s. 47 (read in conjunction with the fifth schedule of the Act) apply only up to the general closing hours specified in s. 2?

2. Will you please give an opinion as to the significance of the words in the second schedule "only for such time as is necessary for serving the customer," and indicate how it is considered that this proviso should operate, bearing in mind that there is no such provision in relation to the serving of medicines either on the weekly half-closing day or on Sundays?

3. As a result of your answer to 2 above, do you consider that this particular shop is complying with the provisions of s. 2 and the second schedule to the Act?

4. Do you consider that the only purpose of s. 1 (7) of the Act is not to limit sales in the case of articles required on the weekly half closing day only to medicines, *etc.*, but permits the sale of any other article under such circumstances, fruit, bedding, *etc.* TRADUMBRIS.

Answer.

1. No. We think s. 2 and the second schedule, read together, are distinct and separate from s. 1.

2. We feel that some meaning must be given to these words, and it would seem that when a customer has been served the shop should be closed until the next customer is admitted. The distinction mentioned in the question arises from the fact that s. 2 and sch. 2 came from a different Act, and upon consolidation in 1950 the provisions were not co-ordinated, but the distinction cannot be ignored.

3. Strictly, we think not, though it seems that no harm is being done in the circumstances of this particular case.

4. In our opinion the subsection permits the sale of any article required in the case of illness.

8.—Weights and Measures—*Coal—Failure to deliver weight ticket—Evidence of fraud.*

A coal merchant delivered four bags of coal to a customer, but did not deliver any weight ticket. The customer observed a youth on the lorry (not the carter) removing pieces of coal from the sacks before they were taken off the lorry, and putting them into another sack on the lorry. A complaint was made, and the coal was weighed by a weights and measures inspector approximately one hour after the delivery, and found to be 35 *lbs.* short of 4 *cwt.*, the customer having asked for and paid for 4 *cwt.*

It was thought that the coal merchant could not be prosecuted under s. 29 of the Weights & Measures Act, 1889, in view of the fact that the coal was not weighed by an inspector either on the seller's premises or in course of delivery. A summons could not be brought under s. 21 of the Act for delivering a quantity less than that stated on the weight ticket, as there was no weight ticket. The company was, however, summoned under s. 21 for failing to deliver a weight ticket. The company cross-summoned the carter under s. 12 of the Sale of Food (Weights & Measures) Act, 1926. Both the company and the carter admitted that no weight ticket was delivered.

The specific questions upon which I should value your opinion are:

(1) Could a prosecution have been brought under s. 29 for delivering short weight?

(2) On the hearing of the case under s. 21 for failing to deliver a ticket, and the cross-summons under s. 12 of the 1926 Act, could the prosecution call evidence of either (*a*) the fact that there was short weight, or (*b*) the tampering with the sacks?

You are referred to both the general tenor of s. 21, which appears to be aimed at the protection of customers against short weight, and s. 4 of the same Act, which provides a heavier penalty if the magistrates are of opinion that the offence was committed with intent to defraud.

On the other hand, it must be admitted that the summons does not make reference either to short weight or to alleged fraud, although both defendants had been told of the short weight on the day of the offence and given an opportunity to check the weight. S. COKE.

Answer.

(1) No, for the reason suggested in the question.

(2) In our opinion, evidence of short weight is irrelevant upon a charge of failure to deliver a ticket, since it does not help to prove such failure. Once such failure has been proved, and the court has convicted, evidence of fraud becomes relevant to the question of penalty, and at that stage is admissible. The fact that the youth tampered with the sacks may be evidence against the carter on the question of fraud if it can be shown that he must have known about it.

Amended Advertisement.

COUNTY BOROUGH OF SUNDERLAND

APPLICATIONS are invited from young men who have completed their national service for the post of Assistant to the Clerk to the Justices for the above County Borough.

Applicants should have had experience of the general duties performed in a Magistrates' Clerk's Office. Ability to type is essential and a knowledge of shorthand desirable.

The salary offered will be in accordance with the Clerical Division (£495—£540 per annum) of the National Joint Council Scales, but is subject to review.

The post is superannuable and the successful candidate will be required to pass a medical examination.

Applications, stating age and experience, together with the names of two referees, to be received by the undersigned not later than Monday, September 13, 1954.

J. P. WILSON,
Clerk to the Justices.

Sessions Courts,
Gillbridge Avenue,
Sunderland,
Co. Durham.
August 31, 1954.

BOROUGH OF TORQUAY

Appointment of Deputy Town Clerk

APPLICATIONS are invited from Solicitors with municipal experience for the above appointment at a salary in accordance with Grade X (£920 to £1,050) in the A.P.T. Division of the National Joint Councils Scheme.

The appointment will be subject to :

(*a*) One calendar month's notice on either side.
(*b*) The provisions of the Local Government Superannuation Act, 1937.
(*c*) The passing of a medical examination.
(*d*) The National Joint Council's Conditions of Service.

Applications, stating age, qualifications, experience, etc., together with copies of three recent testimonials, should be sent to the undersigned not later than Monday, September 13, next.

T. ELVED WILLIAMS,
Town Clerk.

Town Hall,
Torquay.
August 23, 1954.

BOROUGH OF WATFORD

Appointment of Law Clerk

APPLICATIONS are invited for the appointment of Law Clerk. Applicants should be able to undertake normal conveyancing including mortgage advances under the Small Dwellings Acquisition Acts and the Housing Acts.

Local Government experience an advantage, but not essential.

Salary : Grade IV (£580×£15—£625).

Forms of application may be obtained from the undersigned.

Closing date September 10, 1954.

GORDON H. HALL,
Town Clerk.

Town Hall,
Watford.

BOROUGH OF LEIGH

Appointment of Deputy Town Clerk

APPLICATIONS are invited from Solicitors with considerable experience in Local Government Law and Administration for the appointment of Deputy Town Clerk at a salary of £1,000 per annum rising by annual increments of £50 to £1,150 per annum. The Conditions of Service contained in the Memorandum of Recommendations of the Joint Negotiating Committee for Chief Officers of Local Authorities dated May 27, 1952, will apply.

The appointment, which will be subject to the provisions of the Local Government Superannuation Acts and to the successful candidate passing satisfactorily a medical examination, will be determinable by two months' notice on either side.

The tenancy of a modern house in a good residential area will be available to the successful applicant.

Every candidate must disclose in writing whether to his knowledge he is related to any member of the Council or to the holder of any senior office under the Council.

Canvassing of members of the Council, directly or indirectly, will disqualify.

Applications, which must be submitted on the form provided for the purpose, giving the names and addresses of two persons to whom reference may be made, must be delivered to the undersigned not later than by first post on Saturday September 11, 1954.

ALBERT JONES,
Town Clerk.

Town Hall,
Leigh, Lancs.

THE

DOGS' HOME Battersea

INCORPORATING THE TEMPORARY HOME FOR LOST & STARVING DOGS

4, BATTERSEA PARK ROAD

LONDON, S.W.8,

AND

FAIRFIELD ROAD, BOW, E.

(Temporarily closed)

OBJECTS :

1. To provide food and shelter for the lost, deserted, and starving dogs in the Metropolitan and City Police Area.
2. To restore lost dogs to their rightful owners.
3. To find suitable homes for unclaimed dogs at nominal charges.
4. To destroy, by a merciful and painless method, dogs that are diseased and valueless.

Out-Patients' Department (Dogs and Cats only) at Battersea, Tuesdays and Thursdays - 3 p.m.

Since the foundation of the Home in 1886 over 2,000,000 stray dogs have received food and shelter.

Contributions will be thankfully received by Lieut.-Cdr. B. N. KNIGHT, R.N., *Secretary.*

LANCASHIRE (No. 14) PROBATION AREA
COUNTY BOROUGH OF BOOTLE AND LIVERPOOL COUNTY

Appointment of Full-time Female Probation Officer

APPLICATIONS are invited for the above appointment. Candidates must not be less than 23 nor more than 40 years of age, except in the case of serving officers.

The appointment will be subject to the Probation Rules, 1949-1954, and the salary will be in accordance with the prescribed scale. The successful applicant will be required to pass a medical examination.

Applications, stating age, present position and experience accompanied by not more than three recent testimonials, must reach the undersigned not later than September 18, 1954.

P. HULME,
Secretary to the Probation Committee.

Court Buildings,
Oriel Road,
Bootle, Liverpool 20.

COUNTY BOROUGH OF SUNDERLAND

APPLICATIONS are invited from young men who have completed their national service for the post of Assistant Fees Clerk in the office of the Clerk to the Justices.

Applicants must have had experience of Fines and Fees Accounts and Exchequer Returns, and also of the collection and payment of Maintenance allowances.

The salary offered will be in accordance with the Clerical Division (£495—£540 per annum) of the National Joint Council Scales, but is subject to review.

The post is superannuable and the successful candidate will be required to pass a medical examination.

Applications, stating age and experience, together with the names of two referees, to be received by the undersigned not later than Monday, September 20, 1954.

J. P. WILSON,
Clerk to the Justices.

Sessions Courts,
Gillbridge Avenue,
Sunderland,
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LONDON COUNTY COUNCIL

APPLICATIONS invited from men and women under forty on September 20, 1954, with several years' practical experience in a solicitor's office for appointment as law clerks, Class II, in the Legal and Parliamentary Department. Salary (including temporary addition) £382 10*s.*—£31 17*s.* 6*d.*—£701 5*s.* 0*d.* Commencing according to ability and experience. Prospects of promotion. Compulsory superannuation scheme.

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